

STATE OF CALIFORNIA

MEETING OF THE

CALIFORNIA INSPECTION & MAINTENANCE REVIEW

COMMITTEE

Tuesday, April 26, 2005

California Department of Consumer Affairs

400 R Street, First Floor Hearing Room

Sacramento, California

1 **MEMBERS PRESENT:**

2
3 VICTOR WEISSER, CHAIR
4 DENNIS DeCOTA
5 JOHN HISSEICH
6 BRUCE HOTCHKISS
7 GIDEON KRACOV
8 JUDITH LAMARE
9 ROBERT PEARMAN
10 JEFFREY WILLIAMS
11

12 **MEMBERS ABSENT:**

13
14 PAUL ARNEY
15 TYRONE BUCKLEY
16

17 **ALSO PRESENT:**

18
19 ROCKY CARLISLE, Executive Officer
20 JANET BAKER, Administrative Staff
21 LYNN FORSYTH, Administrative Staff
22
23
24

25 **INDEX** **PAGE**

26	Call to Order and Introductions	3
27	Approval of March Minutes	4
28	Executive Officer's Activity Report	5
29	Legislation Update	18
30	Discussion and Motion of AB386	33

31 **AFTERNOON SESSION**

32	Legislative Update continued	109
33	IMRC Meeting Frequency	114
34	Referee Update	117
35	Low Pressure Fuel Evaporative Test Update	125
36	Discussion and Motion of AB383	183
37	Public Comments	203
38	Adjournment	213
39	Transcriber's Certification	214

40

1 member.

2 MEMBER KRACOV: Gideon Kracov, public member.

3 CHAIR WEISSER: I'm Vic Weisser, the Chair.

4 MEMBER WILLIAMS: I'm Jeffrey Williams, a
5 public member.

6 MEMBER HOTCHKISS: I'm Bruce Hotchkiss.

7 MEMBER LAMARE: Judith Lamare.

8 CHAIR WEISSER: And that constitutes a quorum
9 for the Committee, although we do expect additional
10 members to arrive as the meeting proceeds.

11 - oOo -

12 Our first order of business is the approval
13 of the minutes for the meeting of March 21st, 2005.
14 Members, have you had an opportunity to review those
15 minutes? Is there any questions or recommendations for
16 any modifications? Hearing none, is there a motion for
17 adoption of the minutes? And Mr. Hotchkiss moves and
18 Mr. Hisserich seconds. Any discussion? Hearing none,
19 all in favor of adopting the minutes please signify by
20 saying aye.

21 IN UNISON: Aye.

22 CHAIR WEISSER: Are there any opposed,
23 signify by saying no. Hearing none, the minutes are
24 adopted unanimously.

25 - oOo -

1 We'll then turn to our executive officer's
2 activity report, our executive officer Rocky Carlisle I
3 want to make special mention of. I, over the months
4 that have passed and particularly in the last six
5 months, have become just increasingly impressed with
6 the energy, dedication and the insight that Rocky has
7 been able to provide to this Committee and want to
8 express on behalf of the Committee our special thanks,
9 Rocky, for your investment in this important work.

10 Rocky?

11 MR. CARLISLE: Thank you, Mr. Chairman. A
12 couple things we've actually done this month, believe
13 it or not. We've updated the survey for the pre-
14 conditioning survey, and on the 30th of March, as
15 announced at the last meeting, we held a subcommittee
16 meeting at the Cal EPA building. It was an evening
17 meeting and the purpose of it was to ensure that we
18 could get industry participation as requested. Those
19 in attendance were myself, Bruce Hotchkiss, Dennis
20 DeCota and William Ramos.

21 For whatever reason, we didn't have any
22 industry participation, but we did spend some time, we
23 actually waited till about 7:30 to see if maybe they
24 just had a difficult time finding parking or whatever,
25 but at 7:30 the four of us sat down and we did go

1 through the survey and we made some edits to it and we
2 do have copies on the back desk. If anybody in the
3 industry wants to comment on that, we'd certainly like
4 to hear their comments because we would like to move
5 that forward.

6 CHAIR WEISSER: Rocky, will we be going into
7 that with a little more detail as we go through the
8 various agenda items?

9 MR. CARLISLE: That is one of the topics,
10 yes.

11 CHAIR WEISSER: Very good. I'd like to
12 mention to the transcriber that Member DeCota has
13 arrived.

14 Good morning, Dennis.

15 MEMBER DECOTA: Good morning.

16 MR. CARLISLE: The other issue was we had a
17 couple meetings with ARB. I had one between Tom
18 Cackette and myself last month and we also had one with
19 Judith Lamare, myself and Tom Cackette and a couple
20 members of his staff to talk about contracts and money
21 availability, that type of thing.

22 There is a contract being pursued. It's an
23 overlapping contract on multiple issues and there will
24 be funds available in that where we can either have the
25 contractor that they hire do some survey and

1 statistical analysis for us or they may be able to
2 subcontract as well, so they were very effective
3 meetings.

4 CHAIR WEISSER: Any indication from you,
5 Jude, or any other members of the Committee as to
6 potential areas of survey that might be of interest to
7 pursue, or is it premature at this point in time to?

8 MR. CARLISLE: I think initially there's an
9 indication, and I'll rely on Jude to back this up, but
10 we were talking about maybe a follow-up to the consumer
11 information survey to redefine some of the issues that
12 we found with that. There are some variabilities
13 between air districts or basins, if you will, so there
14 may be additional work on that. We may need some more
15 work on the preconditioning issue if we do find in fact
16 there is a problem in that.

17 CHAIR WEISSER: Jude, anything you'd like to
18 add?

19 MEMBER LAMARE: Mr. Chairman, I would add
20 that any survey is one shot in the dark. We used a
21 random selection process, we talked to 550 vehicle
22 owners who failed their inspection. I think this
23 should be an ongoing study, I think it should be a
24 bigger sample. I think only if we continue to
25 systematically and scientifically test the consumer's

1 experience and get the consumer to tell us about their
2 experience that to have a test done in the real world
3 about what is happening with this program, so I as a
4 matter of just standard operating procedure and good
5 social science would say we would not want to rely on
6 one 550-person survey to tell us what's going on in the
7 program; this is one indicator.

8 CHAIR WEISSER: Thank you.

9 MR. CARLISLE: Another issue was the request
10 from the last meeting to look into the two reports that
11 compared test-only to test-and-repair in 2000. The
12 suggestion was made that in the 2000 report that Tom
13 Wentzel's report had indicated that test-only and test-
14 and-repair were identical.

15 That wasn't necessarily the case. What the
16 report really said was that test-only and Gold Shield
17 achieved the same results, whereas the rest of test-
18 and-repair had significantly less achievable emission
19 reductions that they achieved.

20 CHAIR WEISSER: Achievable emission
21 reductions in the form of cars that are failed; is that
22 correct?

23 MR. CARLISLE: Cars that are failing Smog
24 Check.

25 CHAIR WEISSER: So really the studies, as I

1 remember, don't actually calculate the emission
2 reduction difference –

3 MR. CARLISLE: Right.

4 CHAIR WEISSER: – but they do report on a
5 lower failure rate of regular test-and-repair versus
6 Gold Shield and test-only.

7 MR. CARLISLE: Well, one of the things that
8 kind of caught my interest as I was reviewing the
9 reports was the period of time in which the data was
10 collected, not only for that report but also the BAR
11 report that was delivered to the Committee in 2004, so
12 what I did was I went back to 1998, January 1998, and I
13 took this data off the executive summary, so it's
14 public information anybody can look at, and I created
15 three charts and they're in your book. One shows the
16 Smog Check failure rate comparison by station type.

17 CHAIR WEISSER: Where will they be in the
18 book, Rocky?

19 MR. CARLISLE: They're in section two behind
20 that –

21 CHAIR WEISSER: Got it.

22 MR. CARLISLE: And they're also available on
23 the table in the back of the room. And if you notice,
24 when ASM testing began there was a large spike in the
25 failure rate at test-only, and the difference was

1 significant. Back then there was over a 25 percent
2 failure rate at test-only versus about a little less
3 than 10 percent for the rest of the test-and-repair
4 stations.

5 While I'm not trying to do an analysis of why
6 everything happened, I'm just trying to illustrate all
7 the changes that took place with these three charts,
8 because as you look at this, first of all, in test-only
9 and Gold Shield when it also started there was a lot of
10 scrutiny. They had a lot of visits by our staff, not
11 only enforcement but other Departmental staff, and that
12 ended in about 2000, but then you look at the cut
13 points were changed, that had a little bit of a spike.
14 The increased direction to test-only, all of a sudden
15 the failure rate started going down. When the test-
16 only directed vehicle reached 36 percent, it further
17 decreased.

18 The bottom line is, by the time you get to
19 March of 2005 the difference between test-only and
20 test-and-repair was actually 3.1 percent, and actually
21 it wasn't test-and-repair, it was Gold Shield, so
22 they're relatively close. But even at that we've got
23 to remember, too, that test-only is getting all the
24 directed vehicles or the should fail vehicles from the
25 high emitter profile.

1 On the next one it just shows the test-only
2 growth, and from 1998 to 2005 you see it was just a
3 steady almost a linear change, if you will, in the
4 growth of test-only. And what happened in mid-June
5 2003 they started the new GPC program, so when that
6 changed over, some of the other stations were actually
7 classified as test-and-repair stations, that's why you
8 see that large spike there.

9 And finally, when you look at the last one
10 it's volume by station type. You can see starting in
11 January 1998 test-only was very low in volume, test-
12 and-repair was significantly higher. Then as we
13 approach again March of 2005, actually prior to the
14 first of the year what we see is the volume at test-
15 only exceeding that of test-and-repair, and while it's
16 not quite as significant as what it looks like here
17 because you would have to actually add in the CAP
18 stations testing, but it's still, when you look at the
19 actual numbers, the raw data, the test-only vehicles or
20 the vehicles tested at test-only exceeded those at
21 test-and-repair.

22 And the only point I was trying to make with
23 all of this is to say that the report written in 2000
24 doesn't necessarily reflect reality in 2005, and that's
25 just my opinion and I would certainly rely on the

1 experts to validate that, but I thought in discussions
2 with ARB they also indicated maybe a better
3 consideration is not what the failure rate is, not how
4 many anybody tests, but what kind of emission
5 reductions do we achieve from the various station
6 types.

7 CHAIR WEISSER: In that regard, Rocky, is
8 there anything that you're aware of under way at ARB or
9 BAR to explore the differences in terms of actual
10 emission reductions obtained from testing at various
11 places?

12 MR. CARLISLE: Yes. That's part of the large
13 contract (inaudible) as we speak.

14 CHAIR WEISSER: And that's the contract that
15 has not been let yet.

16 MR. CARLISLE: It's not been let. I
17 understand it's going to be let in about June of this
18 year.

19 CHAIR WEISSER: Do you have any sense of the
20 timing of that contract, how long the study period will
21 be and when we might receive data from it?

22 MR. CARLISLE: I do not.

23 CHAIR WEISSER: Is there someone from the Air
24 Resources Board who might be able to step up to the
25 microphone and illuminate us?

1 MS. MORROW: Sylvia Morrow, California Air
2 Resources Board. The request for proposal was released
3 publicly on the 18th of this month. They will be
4 required to submit their proposals, I believe it's May
5 26th, 25th of this month. We will be deciding on a
6 contractor the second week of June and the contract
7 will be in place by June 27th. It will be a two-year
8 contract.

9 CHAIR WEISSER: Does the contract provide for
10 interim reports?

11 MS. MORROW: I'd have to take a look, I can't
12 tell you right now. I mean, the contract of course
13 requires that the contractor provide updates
14 (inaudible) what's going on.

15 CHAIR WEISSER: What I'm inferring from what
16 you said that the date of at least that portion of the
17 analysis might not be available for two years; is that
18 what you're --

19 MS. MORROW: No, that is -- I'd have to look
20 at it, but that is something that's in the near term
21 and will be completed in the near term doing the task
22 of developing a test plan will be, I believe, and don't
23 quote me on this --

24 CHAIR WEISSER: Well, you're dead, you are
25 going to be quoted.

1 MS. MORROW: - by the end of this year, so
2 that's our goal.

3 CHAIR WEISSER: Rocky, I'd like to follow up
4 on this and try to find out what might be available in
5 the timeframes that you were talking about regarding
6 the issue of emission reductions by station type,
7 recognizing that we're still dealing with what I guess
8 I'd characterize as data that is not normalized for
9 type of vehicle, which I think is kind of a crucial
10 aspect and needs to be and I hope will be looked at
11 also as part of this study.

12 MS. MORROW: And that's part of this is that
13 we want to, since the data is so old, we want to
14 develop a new strategy of how to look at how stations
15 are doing and what the emission reductions are and go
16 out and do that testing (inaudible).

17 CHAIR WEISSER: Thank you so much. We have
18 questions, so maybe you'd want to hang around.

19 MEMBER DECOTA: Will the report show the
20 quantifiable emission reductions at the stations?

21 MS. MORROW: I'm not sure about that if we're
22 going to actually get down to the station quantifiable
23 emission reductions at that level.

24 MEMBER LAMARE: Station type (inaudible).

25 MS. MORROW: Well, station type. We're going

1 to be looking at how the stations perform and what ways
2 we can do to improve their performance, more like how
3 can we improve the current Smog Check Program.

4 MEMBER DECOTA: It would just be interesting,
5 I know, to the industry if it could see what type of
6 reductions were being obtained through the testing
7 itself, and I think that if you just quantify the
8 station type that would be very helpful.

9 MS. MORROW: Well, you know, earlier in the
10 past meetings I had mentioned part of this contractor
11 will be developing a test plan, and we plan to bring
12 the test plan to the IMRC Committee for comment.

13 CHAIR WEISSER: That's terrific.

14 MS. MORROW: And so you will at that time
15 have an opportunity to comment.

16 CHAIR WEISSER: Just to be clear, I think
17 what this Committee would be interested in seeing if it
18 couldn't be built into the study would be, as
19 suggested, an analysis of the emission reductions via
20 testing at different station types, and then an
21 analysis of normalizing that data according to vehicle
22 type so that you get an accurate representation of
23 where you're most successful in terms of emission
24 reduction strategies. Thank you.

25 Are there other questions from members?

1 Well, this is really exciting. I think this
2 sort of data will be very, very helpful for the
3 agencies to focus the program in as efficient of a way
4 as possible.

5 Mr. Carlisle, would you please continue?

6 MR. CARLISLE: Yeah, the last item. At the
7 last meeting the Committee requested a comparison of
8 other state programs, in other words, what agencies
9 were in charge of the emissions programs of other
10 states, and so this last spreadsheet in section two is
11 a work in progress, if you will, because I don't have
12 all the states yet.

13 What I've done is I've taken the state,
14 listed the program type, who it's administered by. If
15 it's a centralized program I've also listed the
16 contractor, the areas effected, I've also included the
17 emissions statement of the Department, what agency is
18 responsible for consumer protection, if any, vehicle
19 population subject to testing, the model years tested,
20 the testing frequency, the test types used, also the
21 testing fees for the various areas if they were
22 different from one area to the next as some states are.
23 Who can perform repairs, what kind of waivers are
24 allowed and if so, what are the requirements, whether
25 or not they use remote sensing, and then finally just

1 some oddball notes. So this is a work in progress, I
2 haven't completed it yet, but there is some interesting
3 programs out there.

4 For example, Oregon has a Consumer Assistance
5 Program that uses no public funds whatsoever. It's
6 paid for by donations received at Smog Check stations
7 or their emissions test stations, if you will, and paid
8 through United Way. It does not use United Way funds,
9 it's just administered by United Way.

10 Texas, they use remote sensing to the extent
11 that a vehicle comes from an attainment area and drives
12 into a non-attainment area and has been identified as a
13 gross polluter, then they have 30 days to get a smog
14 test.

15 So there's some interesting programs out
16 there, but this I will complete in this next 30 days.

17 CHAIR WEISSER: Thank you. Any questions
18 from members? Okay. I'm looking forward to this
19 completion, Rocky, thank you.

20 MR. CARLISLE: Okay.

21 CHAIR WEISSER: Are there any further items
22 in this?

23 MR. CARLISLE: No, sir.

24 CHAIR WEISSER: Then I suggest that we move
25 on to a legislative update.

1 CHAIR WEISSER: Yeah.

2 MEMBER DECOTA: Not in its entirety, no.

3 CHAIR WEISSER: I don't think we should at
4 this point in time take any action on it. This is a
5 pretty interesting approach that I don't quite know how
6 it would work. I'd like us to chat with the staff of
7 the author to find out a little more about what they
8 have in mind and how this might be integrated with
9 other similar sorts of programs in terms of consumer
10 assistance.

11 MR. CARLISLE: Okay. Next one is AB383,
12 Montañez, and that bill modifies the Consumer
13 Assistance Program. Basically, the level at which
14 somebody qualifies for that program goes from 185 of
15 the federal poverty guideline to 225 percent. In
16 addition, if a vehicle is directed to test-only it also
17 places an income eligibility on them of 250 percent of
18 the federal poverty guideline. And that one did pass
19 committee and has been referred to Appropriations.

20 CHAIR WEISSER: And this is the measure we
21 already took a position on?

22 MR. CARLISLE: Yes.

23 CHAIR WEISSER: That's great.

24 MR. CARLISLE: A new bill, AB386, that's the
25 Lieber bill that attempts to move the authority for the

1 Smog Check Program from the Bureau of Automotive
2 Repair, Department of Consumer Affairs, to the Air
3 Resources Board, and that did get out of committee late
4 yesterday. It has one opposition and that was Mr.
5 Charlie Peters, so that is out of the Trans Committee
6 and goes on to Appropriations.

7 CHAIR WEISSER: Well, I think it's important
8 that we discuss this measure, considering it's one of
9 the work items that we took on after the release of our
10 report in January was the organizational placement of
11 the Smog Check Program. It appears as an item for our
12 discussion later on in the agenda, but I'm wondering
13 whether it might not be wise for us to discuss that
14 item now in its entirety and thus enable us to
15 determine whether we should take a position on the
16 bill, and if so, what that position might be. Would
17 the Committee members prefer that we do that now or
18 wait until we go through the other work items? I would
19 suggest we do it now.

20 Judith Lamare?

21 MEMBER LAMARE: If there are people here this
22 morning that are interested in that item or any
23 legislative item in this specific discussion, then I
24 think it would serve them well if we got it over with
25 this morning.

1 CHAIR WEISSER: Thank you. Then without
2 further discussion, let's begin the discussion.

3 MEMBER LAMARE: Mr. Chairman, I'm sorry. The
4 other item I did want to comment on in the legislative,
5 if after this one we could go back to the Montañez
6 bill.

7 CHAIR WEISSER: The Montañez bill that we
8 just discussed?

9 MEMBER LAMARE: Um-hmm.

10 CHAIR WEISSER: Why don't we finish up the
11 Montañez discussion and then go to this. Please start.

12 MEMBER LAMARE: Okay. I have one comment on
13 that which will come out of this afternoon's discussion
14 of further analysis of our consumer data, and I want to
15 suggest that after we review that data that we
16 recommend to the author that the income eligible
17 portion of CAP assistance be removed, because, based on
18 our data, we are not finding people who are directed to
19 test-only having difficulty meeting those requirements,
20 and as I recall, the Legislature recommended CAP
21 assistance because of the hardship that they assumed
22 was part of test-only direction, so while we probably
23 want to save that discussion for later today. I did
24 want to flag it if anybody here wants to comment on
25 that issue and isn't going to be here this afternoon,

1 maybe that needs to happen now.

2 CHAIR WEISSER: Well, perhaps –

3 MEMBER LAMARE: You may recall from our last
4 month's presentation that 79 percent of the failed
5 vehicle owners found it easy or somewhat easy to find a
6 test-only station, that 82 percent found that complying
7 with inspection was easy or somewhat easy, that 80
8 percent found it easy to fix their cars, and of those
9 receiving assistance, 65 percent of those receiving the
10 Consumer Assistance Program assistance from BAR were
11 receiving it at a test-only eligible level rather than
12 at the income eligible level.

13 CHAIR WEISSER: But income eligible level,
14 I'm unsure as to what –

15 MEMBER LAMARE: Income eligible level means
16 that the consumer has a household income at 185 percent
17 of the federal poverty level, identified as an income
18 level where the person likely needs BAR assistance to
19 get their car fixed. And as you'll recall, the test-
20 only eligible don't have to show any proof of need,
21 they just need to show that they were directed to test-
22 only and if they want help from the state they get \$100
23 off their costs.

24 So, since we're finding that there isn't
25 difficulty in meeting those requirements of test-only,

1 then the rationale for the state paying out money to
2 help them get repairs seems to evaporate in my view.

3 CHAIR WEISSER: I will say that that was kind
4 of my instinctive reaction to the notion of everyone
5 who is going to test-only being eligible, and my belief
6 is that these monies need to be reserved and focused on
7 those that most need them, lower income people, so if
8 you're suggesting that we might want to write the
9 author and express an opinion that for test-only
10 stations the same sort of income eligibility
11 requirements should be in place as for test-and-repair,
12 you would have my support in that regard. Is that what
13 you're suggesting?

14 MEMBER LAMARE: Right.

15 CHAIR WEISSER: Why don't you make that in
16 the form of a motion, Jude, and I'll second it and then
17 we can open it up for discussion by the Committee and
18 get testimony or comments from the public.

19 MEMBER LAMARE: Okay.

20 CHAIR WEISSER: You don't want to do that?

21 MEMBER LAMARE: Yeah, I do want to do it; I
22 just felt that the report later this afternoon makes a
23 clear case of why.

24 CHAIR WEISSER: Okay. Would you prefer then
25 waiting until -

1 MEMBER LAMARE: I just hinge it on, you know,
2 understanding of everyone here that I'm making the
3 motion based on further analysis of the CAP data.

4 CHAIR WEISSER: Well, I'm not uncomfortable,
5 Jude, with the notion of not making the motion now,
6 waiting until this afternoon, and at that point in time
7 after we hear additional information, taking action on
8 the Committee's position on the legislation.

9 MEMBER LAMARE: As long as we get people to
10 comment this morning.

11 CHAIR WEISSER: But I'd like to give people
12 the opportunity to put in, that's why I wanted to get
13 it on the table at this point in time, but we don't
14 need to –

15 MEMBER LAMARE: So I would move that the IMRC
16 make available to the author, I think it's AB383,
17 information from our consumer survey of failed vehicle
18 owners indicating that the test-only direction is not
19 causing a hardship and recommending that the CAP
20 Assistance Program for test-only directed vehicle
21 owners be, what?

22 CHAIR WEISSER: Similar to that of the test-
23 and-repair?

24 MEMBER LAMARE: Well, that CAP assistance be
25 available only on an income eligible basis.

1 CHAIR WEISSER: That's good. I will second
2 that motion and now open it up for discussion, first
3 from Committee members if there are any questions or
4 comments from individual Committee members, recognizing
5 we'll have an opportunity to return to this item which
6 we will leave open until we are able to go through
7 Jude's more complete report this afternoon.

8 I want to also acknowledge the presence of
9 Mr. Pearman, who joined us about ten minutes ago, for
10 the record.

11 So are there any comments or questions from
12 other Committee members? And now comments or questions
13 – oh, sorry, Mr. Williams.

14 MEMBER WILLIAMS: I have a related point that
15 I've been musing over since our last meeting. I think
16 it touches on this bill but also some other subjects.

17 We seem to have a presumption that older cars
18 are disproportionately owned by not very affluent
19 people, which seems a reasonable assumption. But I
20 also wonder if for many more affluent families the
21 second car is an older car. I almost wonder if the
22 demographic pattern on cars here is that ten-year-old
23 cars are owned by people that aren't too affluent and
24 twenty-year-old cars are hanging around because the
25 affluent family never gets around to selling them.

1 And I think a lot of our discussion about
2 annual testing of cars older than fifteen years, this
3 CAP program and so forth, is based on some assumptions
4 about who owns cars older than fifteen years, and I
5 wonder if we could get some information that might help
6 us to understand that problem better. It's always
7 dangerous to be working on assumptions. Perhaps we
8 could get even a very small sample of, say, 1980 cars,
9 are they owned by someone owning another car at the
10 same address. Perhaps DMV might even be able to give
11 us some simple numbers about that. I think it would
12 inform our discussion a lot.

13 CHAIR WEISSER: My experience is nothing is
14 simple with DMV.

15 Mr. Carlisle?

16 MR. CARLISLE: It just occurred to me, you
17 know, we were blocked essentially from the last survey
18 using any income demographics, but there's more than
19 one way to maybe get some of that information. That
20 would be using the dataset of vehicles we could get the
21 DMV addresses, then we could plot them geographically
22 and certainly we could determine the income level based
23 on that looking at what appears to be an income level.
24 If somebody is living in a million dollar home, chances
25 are that they're not on welfare. Just a thought.

1 MEMBER WILLIAMS: Yeah, this is my similar
2 thought and I guess I just brought to our attention
3 that a car that's directed to test-only, what we're
4 talking about here, what if it's a second car and it's
5 owned by an affluent family. I think we'd have a very
6 different public policy issue. We might as well know
7 how often that's happening.

8 MR. CARLISLE: Certainly there's got to be a
9 methodology using the Internet or a computer program
10 where we could glean that information.

11 CHAIR WEISSER: Mr. Hotchkiss?

12 MEMBER HOTCHKISS: I'll just draw on some
13 anecdotal information. I have a friend who buys and
14 sells cars and particularly older vehicles, and I know
15 a big part of his market tends to be retired people or
16 the children of people who have just passed away who
17 have had vehicles that have constantly been registered
18 but maybe have sat in a garage for ten years, and he
19 does run into problems. Every time BAR changes the
20 retirement program when it went up in value, it reduces
21 the number of vehicles out there eligible to him.

22 So, I mean, there are these vehicles out
23 there that sooner or later somebody says why don't we
24 get rid of that old Ford sitting in the garage, and
25 they've been smogging it or whatever and this time it

1 doesn't pass so they do get rid of it, but there are a
2 fair number of vehicles out there like that.

3 CHAIR WEISSER: What I'm going to suggest at
4 this point, Rocky, is first you confer with the
5 agencies, including DMV, to determine whether any work
6 has been previously done associated with car ownerships
7 and income levels of the owners, or as Dr. Williams has
8 put forward, the issues associated with multiple car
9 family households. So let's try to do a little survey
10 of what information already may exist. I would be
11 stunned if we don't have some information associated
12 with that.

13 If we can't find any information that's
14 already been developed, then I believe we do need and I
15 think it would be wise for us, as Jeffrey and Jude have
16 suggested, for us to generate such information or to
17 cause to be generated such information. I am not
18 convinced by what we experienced in our last study
19 period that we are unable to get data associated with
20 income level, and I'm frustrated by what occurred, but
21 I guess I'm stubborn and I want to pursue that question
22 because I think it strikes at the very heart of some
23 very important issues associated with the program.

24 Are there other comments or questions from
25 members? Then I'd love to hear some comments or

1 suggestions from members of the audience if anyone has
2 any in this regard associated with the income
3 requirements associated for assistance for vehicles
4 directed to test-only. Of course there are none at
5 this point. Please, we'll start from the back and work
6 our way forward.

7 MR. RICE: Good morning, my name's Bud Rice
8 from Quality Tune-up Shops. I would like to jump on
9 the bandwagon and say I would also say that's a great
10 idea, a great concept to combo the goal so that what's
11 good for one is good for all so far as the benefit that
12 somebody could get from income criteria. Thank you.

13 CHAIR WEISSER: Thank you, Bud.

14 MR. POLLINO: Good morning, my name's Andy
15 Pollino and I have Pro Care Automotive in Stockton,
16 which is a test-and-repair Gold Shield station, and I
17 just want to add a little information.

18 I get people coming in or qualifying for the
19 program because they use their maiden names and conceal
20 their husband's income. I get cars coming in with
21 students at UOP who are qualified under their income
22 even though mom and dad are still supporting them. And
23 I do get a fair number of doctors' wives or other
24 professional bringing in their second car because it
25 was directed test-only because it is an older vehicle.

1 All those things are happening on a fairly regular
2 basis.

3 Also, I'm getting, although it's not supposed
4 to happen, I'm getting vehicles that are change of
5 ownership coming in under the CAP program. It's
6 supposed to be only for biennial people, so CAP is not
7 screening the applications as closely as they ought to.

8 CHAIR WEISSER: Thank you. Are there any
9 questions on that? I'm shocked that people would
10 attempt to mislead and deceive you or the State of
11 California. I guess I want to hear if there's anyone
12 else in the audience that has information associated
13 with program abuses such as this, because if there are
14 program abuses such as this that can be traced to a
15 problem or a gap associated with the process that we
16 use to qualify people, I'd sure like to be able to
17 direct that to the appropriate agency folk to see
18 whether they can come up with a methodology to close
19 any sort of abuse of this sort.

20 Mr. Peters?

21 MR. PETERS: I'm Charlie Peters, Clean Air
22 Performance Professionals. Committee and Mr. Chairman,
23 you indicate that any kind of abuse that it's not quite
24 going as it should that you'd like to hear about it.
25 That's an extra comment. I have a specific example. A

1 gentleman in his seventies, gets out of high school
2 automotive and went to work for a major corporation in
3 electronics for thirty years, went to a Smog Check
4 station. This is a new car dealer that had
5 relationships with people that went back forty years,
6 people that had previously worked there. He ended up
7 being referred to a test-only station across the
8 street. Couldn't understand anything that the guy said
9 to him. The car failed, he went home, replaced the
10 spark plugs, replaced the cap and rotor. The cap had
11 deteriorated to the point where the (inaudible) rotor
12 was completely gone. The spark plugs were double the
13 amount necessary.

14 Then he took the car to his favorite new car
15 dealer across the street. The car was there for six
16 weeks, he spent a total of \$2500. He took the car out
17 of there because it still wasn't passing and put a new
18 catalytic converter on the car (inaudible) in his
19 garage and the cat wasn't doing anything. So the total
20 amount of money he spent was \$2500.

21 It failed for hydrocarbons by a little bit,
22 (inaudible) repairs that reduced emissions that he
23 made. His car now runs terrible. He goes back to the
24 dealer and the dealer says basically I can't help you.

25 Bureau of Automotive Repair volunteered to

1 pay \$500 as long as it's okay with the dealer after the
2 fact. As far as I know, that's not an appropriate way
3 to get into the program, but we continue to see
4 (inaudible).

5 We did document on the invoice, it was
6 documented on the invoice that the Smog Check was
7 (inaudible). The description of (inaudible) too.
8 Cost.

9 There was not any complaints filed with the
10 Bureau of Automotive Repair, but we found it
11 interesting that the Bureau of Automotive Repair after
12 the fact after the job was done was indicating that
13 (inaudible) you can go back and give \$500 in state
14 funds to this gentleman. This is just an example of a
15 person out there that possibly thinks that it's not
16 appropriate (inaudible).

17 CHAIR WEISSER: Thank you, Mr. Peters. What
18 I'm particularly interested in knowing is if there's
19 any repeating pattern of abuse. I think that would be
20 particularly helpful to the agencies to know, and I
21 urge folks to come forward and suggest in writing to
22 the agencies suggestions for how to close any gaps that
23 might exist.

24 Any other comments or questions from the
25 audience? Okay. Please continue then with the

1 legislative report, and we'll hold this item open, as I
2 indicated, till the subsequent discussion on the survey
3 that Jude was in the lead on.

4 MEMBER LAMARE: But then we were going to
5 talk about the next one, right?

6 - oOo -

7 CHAIR WEISSER: Well, we are going to talk on
8 the next piece of legislation and both talk about the
9 legislation and the analysis that's been done to date
10 on the issue associated with the organizational
11 placement of the Smog Check Program, and take an action
12 or not take an action depending upon what the
13 Committee's perspectives are.

14 So why don't you first give us a report on
15 the legislation, describing what the legislation
16 purports to do and any actions that have been taken
17 recently in regards to the legislation, Rocky.

18 MR. CARLISLE: We're back on AB386?

19 CHAIR WEISSER: That's correct.

20 MR. CARLISLE: The action recently, like I
21 say, was the passage out of Transportation Committee to
22 passing it on to the Appropriations Committee.

23 CHAIR WEISSER: That's the Assembly
24 Transportation.

25 MR. CARLISLE: Yes, the Assembly. It's my

1 understanding that the bill is being revised because
2 there are multiple sections of the Health and Safety
3 Code, the Vehicle Code, the Business and Professions
4 Codes that are impacted by the legislation, and –

5 CHAIR WEISSER: In general terms, Rocky, what
6 does the legislation propose?

7 MR. CARLISLE: In general terms what it seeks
8 to do is pull the authority for the Smog Check Program
9 in addition to the budget authority for the Smog Check
10 Program and transfer that from the Department of
11 Consumer Affairs to the Air Resources Board, but yet
12 leave the infrastructure of the Bureau of Automotive
13 Repair intact.

14 CHAIR WEISSER: So the bill would provide
15 that the control of policy direction be transferred
16 from BAR to CARB while still having BAR act as the
17 principle implementing agency.

18 MR. CARLISLE: Correct. It also seeks to
19 transfer the funds as well, at least the Smog Check
20 funds, not the ARD funds, and there would be an
21 interagency agreement from what I understand.

22 CHAIR WEISSER: Okay. In your package in
23 section five, I think, is a draft of an analysis that
24 we prepared – by we, I mean the subcommittee of myself
25 and John and our able executive officer Rocky Carlisle.

1 This is a work in progress and draft, which is why
2 members of the audience at this point in time don't
3 have copies of it.

4 This proposal in the legislation was put in
5 after we identified this as a work item, and the
6 timing, I'm sure, is a result of the discussions that
7 we had upon the adoption of our report in January.
8 While we -- I, I will speak for myself -- was not in
9 contact with the author or the author's office prior to
10 its introduction, since that period of time I have had
11 a couple of conversations with the staff of the author.

12 Rocky, as you know, prepared the initial
13 draft last month of this paper which I did some work on
14 while recuperating from the cold I had for the last
15 couple weeks over this weekend, and I would want to
16 actually take a break and make sure that everyone's had
17 a chance on the Committee at least to look at this so
18 that we can use this as a starting point and use this
19 opportunity of being able to work together in public to
20 see if there are changes or questions or issues that
21 need to be addressed in this paper.

22 For the benefit of the public watching us do
23 our work in public, subject as we are to the Bagley-
24 Keene Act and other provisions, the paper presents the
25 issue in very clear form. It says: "Should policy

1 authority for the State Smog Check Program be
2 transferred from the Department of Consumer Affairs,
3 Bureau of Automotive Repair, to the California Air
4 Resources Board?" There's a little section in terms of
5 background, just general background of the Smog Check
6 Program and the history of the Bureau of Automotive
7 Repair, and then a conclusion and recommendations and a
8 discussion of a variety of alternatives that might be
9 considered in terms of organizational placement.

10 Those alternatives that are listed here, and
11 they're certainly not all-inclusive, I mean there are a
12 myriad of potential options, include the null
13 alternative, I believe the second option of retaining
14 the existing organization. An option that this draft
15 paper recommends, which is to transfer all Smog Check
16 Program policy and budget authority to CARB while
17 leaving responsibility for implementation of the
18 program with BAR, that's the form, I guess Rocky, that
19 the legislation has taken.

20 There are two additional alternatives that
21 are put in here, one that looks at, well, maybe you
22 should just transfer all of BAR to CARB. The brief
23 analysis in this paper does a pro/con analysis of each
24 alternative and there are substantial con's associated
25 with that as well as the fourth alternative, which

1 would be transfer just the Smog Check Program lock,
2 stock and barrel including the staff and equipment and
3 everything else over to CARB.

4 The subcommittee, John and I, with help that
5 we received from Rocky, believes that the preferred
6 alternative would be to transfer the policy
7 responsibility to CARB while leaving the actual
8 implementation of the program, administration of the
9 program, with BAR. I will spend a few moments, if the
10 Committee would grant me that, to discuss why, what's
11 behind this issue, and if the Committee would allow
12 that I'd like to kind of go into that.

13 I believe that over the past couple of years
14 in my association with this program that it's become
15 clear to me that the State of California and the
16 California citizens are not being served well with the
17 existing organizational structure. This is not the
18 fault of any person or people in staffs of any of the
19 agencies involved, but I believe it's a problem that is
20 caused at its root by the organizational placement of
21 policy authority in the program. The program is housed
22 in the Department of Consumer Affairs Bureau of
23 Automotive Repair, which has a long history, and I'd
24 say a glorious history and one they can be justifiably
25 proud of serving as an effective consumer advocate for

1 the people of California.

2 In contrast, California's air quality program
3 is overseen, directed and most importantly led by the
4 California Air Resources Board, the agency that's
5 enjoyed a multi-decade reputation as the cutting edge
6 regulator in the world on achieving air quality goals.
7 Included in the Air Resources Board's responsibility is
8 virtually exclusive responsibility for the mobile
9 source sector. The way responsibilities in air
10 qualities are split up, local air districts have
11 responsibility for rules and regulations and adoption
12 of command and control programs as well as market and
13 senate based programs for stationary sources, whereas
14 the almost exclusive authority for mobile sources
15 policy, rules, rests with the Air Resources Board.
16 That's even recognized in federal statute which has
17 given California a special exemption for its own mobile
18 source programs. An anomaly to that situation is this
19 program where the Bureau of Automotive Repair maintains
20 policy and control over the program.

21 My belief is that the Bureau's culture of
22 protecting and advocating for consumer protection is
23 different than the Air Resources Board culture of
24 protecting and advocating the environment and the air
25 quality for its citizens, and because of that different

1 emphasis, I think we've seen things occur in the Smog
2 Check Program that have not been advantageous in terms
3 of meeting the program's fundamental goal, because the
4 bottom line of the Smog Check Program is to reduce
5 emissions from cars and light duty vehicles, that's the
6 bottom line. If we were not trying to reduce
7 emissions, we wouldn't have a Smog Check Program,
8 period. That's the only reason we have a Smog Check
9 Program, and I believe that actions that have been
10 taken on behalf of the program by the Bureau have
11 lagged in terms of timeliness and in terms of impact in
12 terms of improving the program's effectiveness. There
13 are two examples that are cited in this study, I won't
14 go through both of them in this brief analysis. We'll
15 have a chance to chat about one of them later on when
16 we talk about the pressure testing issue.

17 I believe that the policy direction from this
18 program should be given to people who have a direct
19 stake in the achievement of air quality goals, and
20 that's the Air Resources Board. The Bureau is not on
21 the hook for that, it's the ARB, and I want to align
22 the authority for policy with the responsibility for
23 the attainment of that policy with the Air Resources
24 Board. That's why I would recommend support of the
25 Committee for this option, but I recognize that this is

1 not an easy issue and there are going to be different
2 opinions and I look forward to a robust conversation.

3 With that, I'll open it up for discussion
4 from members of the Committee. Jude?

5 MEMBER LAMARE: Thank you, Mr. Chairman. It
6 seems to me in our review of the Smog Check Program
7 we've seen some data that support this and I would like
8 to see the data included in our report or paper or any
9 correspondence that we have.

10 First of all, our own consumer survey shows
11 that there's almost a consensus among failed vehicle
12 owners that the program is fairly easy and they are not
13 having difficulty meeting the requirements of the
14 program. 82 percent said that complying with
15 inspection was easy or somewhat easy; 80 percent found
16 it easy to fix their car; 79 percent found it easy or
17 somewhat easy to find a test-only station of those who
18 were directed to test-only, and so on. So clearly, the
19 Bureau has done a good job of helping the consumer and
20 protecting the consumer in the Smog Check process.

21 Meanwhile, we were told in the April 2004
22 report by ARB and BAR that in roadside inspections of
23 cars that were inspected at the roadside on their
24 emissions, 40 percent of the cars that had just within
25 six months had had a Smog Check, failed Smog Check,

1 which I believe tells us and I think the report meant
2 that the cars were not getting repaired properly or
3 there's fraud involved. I mean, there are a number of
4 different reasons why that could be so, but I think the
5 fact that 40 percent of the cars that had passed Smog
6 Check within six months failed at roadside tells us
7 we're not getting the emission reductions that we need
8 to get in the Smog Check Program. That's the big gap
9 that the program recommendation, the improvement
10 recommendation was addressing in that April 2004
11 report. So I'd like to see those two sources of data
12 sort of put together in a sentence or a paragraph
13 explaining why evidence from the program performance
14 seems to suggest that the consumer's needs are in fact
15 being well taken care of, but the air quality needs are
16 not being as well taken care of.

17 A couple of other comments that I would make
18 would be that the ARB process provides more consistency
19 to the program in that there's a public process, the
20 ARB goes through a regulatory review that is a public
21 process.

22 Also, in my mind, and this may not seem
23 related but in my mind it's somewhat related that we've
24 heard here about the turnover of BAR chiefs, that we
25 have had a fairly frequent turnover in BAR chiefs, and

1 the BAR chief is the key to the implementation of the
2 Smog Check Program, whereas at ARB you have a more
3 robust and more durable set of staff and policy folks.
4 Even, you know, I think the Board members are at the
5 pleasure rather than term, but they tend to stick for a
6 pretty long time.

7 Finally, I would note that I don't know where
8 the legislation is going or how the author is going to
9 work through the very big issues about how you
10 articulate a program in two separate agencies. It's
11 certainly a groundbreaking look at how do you make
12 government work when it involves bridging two separate
13 agencies, but I think that we're going to need the
14 Cabinet Secretary or a Governor's executive order.
15 We're going to need legislation that directs the
16 Cabinet Secretary to work out an agreement or an
17 executive order to define the relationship between the
18 two agencies and what will happen in the case of a
19 dispute.

20 If, as I predict, the answer is that the
21 budget policy goes to ARB with the program and
22 operational level of the program stays with the Bureau
23 of Automotive Repair, which seems to be a sensible
24 thing to do except that you have to bridge two agencies
25 to do it, so I don't know if this group wants to get

1 into that kind of political science, but I think it
2 might be needed by somebody to do that.

3 CHAIR WEISSER: Thank you, Jude. I would
4 only comment that there are numerous instances where
5 programs due to design or just growth and evolution end
6 up with responsibility split among different state
7 agencies. Often these sorts of dual-headed approaches
8 are dealt with through memorandums of agreement between
9 the agencies. Only occasionally do you actually see
10 them spelled out in detail in statute, but that's been
11 done. I am unsure as to whether a Governor's executive
12 order is ever used in that regard, but I assume
13 anything could be done.

14 Here, I think what we're talking about is a
15 relatively simple and somewhat serviceable slice in
16 theory. The difficulty is you don't want the
17 architect, and we'll characterize ARB under this
18 proposal as the architect, coming up with a design that
19 the contractor, the home builder, BAR, you know, finds
20 absurd and ridiculous, and you would need to provide
21 some mechanism to ensure collaboration and cooperation.
22 Something that's existed between the agencies in the
23 past, I don't think there's much doubt about that, but
24 you'd need to memorialize that in some fashion.

25 Bruce?

1 MEMBER HOTCHKISS: Yeah, I have three issues,
2 areas of concern on this.

3 One, as a union official I am concerned about
4 our members at BAR and I want to make sure that
5 whatever happens to the program that our members are
6 protected. I'd say that I think the field staff at
7 BAR, people who are members, are the best suited to
8 regulate the program. They are a dedicated bunch,
9 they're a knowledgeable bunch, they're damn fine
10 investigators as well, and so I want to make sure that
11 they're protected.

12 As a citizen, as a human being, I have
13 concern about air quality as well, and I agree with
14 you, I'm not sure that I've heard or seen that that is
15 an overriding concern of the program and I think it
16 needs to be. I agree with you that that is or should
17 be the reason for the existence of the program is to
18 clean the air.

19 The other issue is consumer protection and a
20 fear if the whole program was moved over to ARB is that
21 without the funding from the Smog Check Program that
22 the Bureau of Automotive Repair's consumer protection
23 side would not exist or would exist in a very greatly
24 reduced manner because of the money. I mean, there's a
25 lot of money that comes from the smog inspection

1 program.

2 CHAIR WEISSER: I have a question in that
3 regard. Is the money that comes from Smog Check used
4 for the general consumer protection or doesn't that
5 money come from a different source of funding?

6 MR. CARLISLE: Well, they have roughly \$9
7 million that comes from licensing for ARDs, but I don't
8 know that that would fund the whole ARD function. I
9 don't know that much about the BAR budget, but I can
10 find out.

11 CHAIR WEISSER: Please do.

12 MEMBER HOTCHKISS: And that's my basic
13 worries. One of the things you mentioned was the evap
14 testing, and I notice former Chief Marty Keller sitting
15 out there and I know evap testing, we talked about it
16 when Marty was chief and that's a long time, and it has
17 been dragging, so there is this problem with getting
18 things implemented quickly to clean up problems.

19 CHAIR WEISSER: Jeffrey?

20 MEMBER WILLIAMS: I'm just puzzled about the
21 enforcement issues. It seems to me to be at the heart
22 of what Jude was noting that cars that pass seem to in
23 six months fail again. Does that suggest that the
24 enforcement is not as strong as it should be and that's
25 the root of the problem? And if it's enforcement

1 that's going wrong, does this change in organizational
2 structure make for better enforcement? Maybe, but I'd
3 like to be explicit that that's what we're thinking
4 about.

5 CHAIR WEISSER: In fact, I don't think that's
6 the case at all. I think the problem associated with
7 cars failing too quickly after they've gone through a
8 Smog Check and passed was addressed directly in the
9 formerly joint study between the BAR and CARB in which
10 they addressed this by suggesting annual testing for
11 older cars and other measures that cars that fail, you
12 remember they addressed one subject was perhaps
13 consider higher passing points for repair than that
14 which you'd need to originally pass the car, the
15 concept there being if you require higher pass points
16 the repairs would be more durable.

17 What I saw in the report were a series of
18 proposals to try to strengthen the emission reduction
19 generating capacity of the program. Thus, it was, as
20 you'll all recall, disturbing to me when at the last
21 moment the Bureau reconsidered its recommendations and
22 withdrew them all in favor of allowing the legislation
23 that passed in the 2004 session to have time to get
24 into operation and see how that worked. But I think
25 that's precisely the issue.

1 I think if this program were directed, the
2 policy were directed by ARB, you would see a higher
3 degree of commitment to action to try to address that
4 problem than you will see and than we do see from the
5 Bureau. I just personally believe that that's true.

6 I don't think the Bureau has per se an
7 enforcement problem. I mean, I agree with Bruce,
8 you've got a bunch of talented people, perhaps not as
9 many as would be desired. You know, maybe there's not
10 enough money for as much training as you'd desire or
11 whatever, that I don't know. I think their enforcement
12 program they try to do as good as they can. It's the
13 policy direction that I'm concerned with.

14 Let's move on down and see if Mr. DeCota has
15 something he would like to add.

16 MEMBER DECOTA: I think it's very
17 interesting. I know that change is difficult and it's
18 the type of thing that you really have to take and
19 study and look into. I'm not exactly sure of my
20 position on some of it, but I do feel that BAR is an
21 enforcement agency and I do believe that the Air
22 Resources Board is a health agency for the public in
23 general, and I think that it is proper for the Air
24 Resources Board to have policy management over this
25 important program of reducing emissions. I also think

1 it's proper and needed that there be adequate
2 enforcement, and I think that the Bureau of Automotive
3 Repair in this recommendation retains that ability. I
4 think that it clarifies things.

5 I've been a member of this panel for over
6 twelve years and I've seen pilot after pilot after
7 pilot on various different issues. One that comes to
8 mind and is most prominent is the Gold Shield Program.
9 The state passed legislation that was never carried
10 through with regards to the Gold Shield Program, which
11 could have included hopefully improving air quality,
12 but it never really got out of the blocks. I've seen
13 things that have died in the halls of Systems Boulevard
14 that were good ideas that would have improved air
15 quality, but from enforcement values there's a
16 conflict, there's an inherent conflict, and I think
17 it's time that maybe we do look at some type of a
18 change in how it's set up.

19 I can tell you about the durability of
20 repairs. There's a conflict there. The law says you
21 must fix the car, okay, to pass smog. You can fix the
22 car to pass smog, and unfortunately, the durability of
23 that repair could be very minimal. Thirty days, forty-
24 five days. Maybe Air Resources Board on behalf of the
25 consumers at large needs to put more teeth in what that

1 means in studies and concepts on what is the durability
2 of the repair that's being invested and programs to do
3 it. So at this point I would like to kind of just sit
4 back and listen to others, but change isn't bad.

5 CHAIR WEISSER: Mr. Pearman?

6 MEMBER PEARMAN: I guess I'd like to ask the
7 proponents of this change, the issue was described as
8 should policy authority be moved, and I know in the
9 Lieber bill it basically changes by saying the State
10 Board shall, like Rocky said, develop the program
11 goals, but the Department shall implement and enforce,
12 so is that consistent with what you meant by just
13 shifting policy authority?

14 CHAIR WEISSER: Yeah, it is. I would say
15 that's not by design, that's the direction the author
16 took, but it is consistent with what we're talking
17 about.

18 I don't want to mislead you, though. The
19 bill as well as the first alternative, the alternative
20 that the subcommittee is recommending, also talks about
21 shifting the money to ARB's budget for then allocation
22 to BAR to accomplish the policy objectives laid out by
23 ARB. The sense that Committee staff, and I must say I
24 share, have is that you need to match the budgetary
25 authority with the policy responsibility. Power

1 follows money. But it does envision, Robert, the
2 actual operation, implementation and enforcement of the
3 program remaining just as it is today, inside BAR. BAR
4 has that history of working with both consumers and
5 providers of service through test-only and test-and-
6 repair that ARB does not have, they don't have a
7 history of direct contact with consumers, and the
8 notion is to take advantage of the strengths of both
9 agencies.

10 MEMBER PEARMAN: So when we talk about in
11 your recommendation, if you would, funds for the
12 program would be requested by and budgeted to CARB,
13 that means funds for all the program even though they
14 might come in from certain sources, somehow the
15 government would allocate all those to CARB's
16 discretion to then appropriate something to BAR to do
17 its program administration?

18 CHAIR WEISSER: In general terms, yes. The
19 concept would be that the funds that are generated
20 through the Smog Check Program would be appropriated by
21 the Legislature through the budget process to CARB.
22 They would be suballocated through a memorandum of
23 understanding between BAR and CARB for the
24 accomplishment of the program objectives.

25 Rocky, you have something you wanted to add?

1 MR. CARLISLE: Yeah, I was just going to
2 comment that the majority of the funds come from the
3 certificate fee, which is 8.25 per vehicle certified,
4 and that's the majority of the funds, although there's
5 other fees for the smog abatement fee that you pay on a
6 new car six years and newer. At the time of
7 registration half of that now goes to Carl Moyer and
8 half of it goes to Smog Check, so those funds would be
9 going to the Air Resources Board. Funds for the
10 automotive registration, the dealer registration that
11 each repair shop has to pay, and there's some 40,000 of
12 them in the state, that would be retained by BAR.

13 CHAIR WEISSER: Does that raise a question or
14 concern on your part that we should know about?

15 MEMBER PEARMAN: Well, I guess I mean the
16 devil's in the details about whether the legislation
17 would describe or the administration would allow, you
18 know, this is the number we expect for the Smog Check
19 Program so, no matter where it comes from, that money
20 is allocated to CARB for them to dish out, or are you
21 saying there's certain parts of revenue that then go
22 straight to ARB which then they dish out? There's a
23 slight difference and I don't know the details enough
24 to say whether we can live with just saying certain
25 parts of revenue go to ARB, period, or we have to each

1 year talk about a different amount.

2 CHAIR WEISSER: That's a good question and a
3 question that, regardless of what the Committee's
4 action is, I would ask that you chat with the staff of
5 the Committee to alert them. They may want to get in
6 contact with the Department of Finance and both
7 agencies to get their ideas as to how that might be
8 handled.

9 MEMBER PEARMAN: Then our draft paper
10 suggests that one problem with the current setup is
11 that BAR's focus includes ease of program
12 administration. I guess that means from their
13 standpoint, because I don't think the service stations
14 think BAR's goal is ease of program administration, but
15 I don't think people who are regulated by ARB think the
16 same thing, so what is the theory that this shift in
17 policy would somehow overcome that? You're saying that
18 ARB not being the implementer would be less concerned
19 about the administrative convenience of their actions
20 because they put air quality first; is that the theory?

21 CHAIR WEISSER: I'm not sure I'd characterize
22 it in that way. I think what I've seen on the part of
23 the Air Resources Board over a fifteen-year-plus period
24 of direct exposure to their activities is a relentless
25 drive to identify opportunities to reduce emissions

1 wherever they lie and to try to find cost-effective
2 regulatory mechanisms to achieve those emission
3 reductions. When the Air Resources Board goes through
4 a rulemaking and adopts a rule that deals with this
5 emission category or that emission category, the book
6 doesn't close. They don't wait two years, three years
7 to say, well, okay, what can we do next? They wait
8 till next week to see what they can do next. They're
9 constantly looking for emission reduction program
10 opportunities.

11 I haven't seen that on behalf of BAR. And in
12 fact, as we heard from the Bureau during the discussion
13 regarding in our January meeting on the adoption of the
14 report, the Bureau feels it's important to wait and see
15 how things turn out and take a much, it seems to me, a
16 slower pace, perhaps a pace to take more consideration
17 before doing additional things.

18 We see and we saw a fundamental conflict
19 between the Bureau and ARB in our January meeting where
20 ARB was continuing to say they support the
21 recommendations that were in their report and feel they
22 should be adopted and put into place as soon as
23 feasible, whereas the Bureau very clearly articulated a
24 perspective saying, no, you know, we need to wait and
25 see how the 2004 Legislative Session actions work out.

1 That to me is the difference. It's not the issue of,
2 gee, you don't have to worry about implementation
3 because you're not responsible for it. ARB is
4 responsible for a lot of implementation of what it
5 does, and I have not seen any sort of kind of haphazard
6 or light-handed consideration of that. They're
7 sensitive to the issues associated with the programs
8 they are responsible for implementing.

9 MEMBER PEARMAN: All right. One thing I
10 noted in the Lieber bill is that it changes the
11 approval, if you will, the joint report to say it shall
12 be something the State Board shall issue, I guess, with
13 input of BAR, so to the extent that conflict helped
14 drive our thoughts to a change, you could just do that
15 simple change and you wouldn't have to make any other
16 changes, and so there certainly are less drastic
17 alternatives if that was the main concern.

18 CHAIR WEISSER: Maybe I need to make sure I
19 understand what you're saying. The bill does address
20 who would be responsible for the report, but I guess
21 what I'm hearing you say is one alternative would be,
22 instead of handing the authority for the program change
23 over to CARB, to the California Air Resources Board,
24 just have responsibility for issuing the report be
25 transferred over to CARB, still having the policy

1 decision making made by the Bureau of Automotive
2 Repair. Is that what you're -

3 MEMBER PEARMAN: I mean, again, the specific
4 instance of the report conflict could be handled just
5 by that simple change.

6 CHAIR WEISSER: That's correct, though I'm
7 not sure it would address the issues associated with
8 the speed of adoption and implementation of any
9 improvements to the program.

10 MEMBER PEARMAN: No, I think that's right.
11 My point is, we propose something, we have to
12 anticipate comments, and one comment would be, well, if
13 used as an example of why you need this change, there's
14 a simpler way to take care of it so why not do that?
15 So we have to, I think, go beyond maybe just a couple
16 examples to discuss the whole context of why the change
17 is appropriate. That's more of a rhetorical statement
18 than a question to the subcommittee.

19 CHAIR WEISSER: I think that's well put.

20 MEMBER PEARMAN: And on the same fashion, I
21 mean, can't our reaction be that this is really just
22 politics, which is always the case here? I mean, if
23 the government wanted BAR to be more attuned to air
24 quality, it's an agency of Administration, he could
25 direct it. If they wanted ARB to not issue a report

1 unless BAR approved no matter what the statute said,
2 they could do that. So is it clear that this change
3 will make a difference if the politics don't change?
4 That's like a question for people to think about in
5 terms of whether (inaudible).

6 MEMBER DECOTA: Isn't that the case in any
7 statute or any -

8 MEMBER PEARMAN: Which means if you don't
9 change it the effect would be the same, though. So the
10 question is, how does the statute alter that dynamic,
11 if at all? That would be my question to the proponents
12 of it.

13 MEMBER LAMARE: Mr. Chairman, could I address
14 that?

15 CHAIR WEISSER: Yes, Jude?

16 MEMBER LAMARE: Bob, just in response to that
17 question, it seems to me that the author of this
18 legislation has introduced the legislation in order to
19 generate a public dialog on this issue so that people
20 can become aware that it is an issue and address it as
21 a community in a public process, so our engagement
22 equally is an opportunity to discuss it and that's a
23 political discussion, but clearly the Governor has a
24 whole heck of a lot of other things on his mind and
25 those who want to get this issue aired, including the

1 author of the legislation, would like to see us help
2 get the issue elevated, so I'm really confused by your
3 characterization that this is a political issue that
4 doesn't matter what the legislation says. The purpose
5 of legislation is to generate discussion.

6 CHAIR WEISSER: The Schwarzenegger
7 Administration, I believe, has shown over its tenure a
8 fairly deep and significant commitment to air quality.
9 I don't think there's any shying away from the
10 challenge that exists. I don't believe that this is an
11 issue that stems from a political standpoint. I really
12 think it's an organizational structural issue, very
13 simply.

14 I've worked in state government in a variety
15 of organizations for twenty-five years and have a sense
16 of how organizational culture and principal agency
17 focus influences perceptions, influences priorities,
18 and I believe that's what we're seeing here is a very
19 natural difference in terms of priorities coming from
20 the Department of Consumer Affairs Bureau of Automotive
21 Repair than that which we would see were the policy for
22 the program lodged in the California Air Resources
23 Board.

24 MEMBER LAMARE: And Vic, could I make one
25 more comment on that?

1 CHAIR WEISSER: Sure.

2 MEMBER LAMARE: Clearly, I don't stand on the
3 same wavelength with any of the other members of the
4 Committee, I don't understand some of the things that
5 are being said, but I would like to point out that we
6 now have an eight-hour ozone requirement that requires
7 us to have new air quality plans within the next couple
8 of years, and that means something like cranking down
9 another 25 percent on our mobile source emissions, so I
10 believe that the Administration is well aware of the
11 fact that we haven't met our air quality standards,
12 federal public health standards for air quality, and
13 have a new and more serious challenge coming up pretty
14 soon, and that therefore it's a good time to take a
15 look at the whole range of how we do business on mobile
16 source reductions and in fact would not be a better
17 time to ask the question, are we doing our Smog Check
18 Program to get the best benefit for air pollution
19 reduction and meeting our public health standards, and
20 a good time to look at whether other states are maybe a
21 little bit ahead of us in some ways or others. So I
22 see that this discussion plays into that bigger issue
23 of what is our next air quality plan going to look like
24 and how are we going to get more out of the Smog Check
25 Program. Thank you.

1 CHAIR WEISSER: I think that, by the way,
2 that issue associated with the new standards that are
3 going to be likely coming into play is something we
4 should, a sentence or two in regard to Jude's comment
5 that it's timely to have a public discussion on this
6 issue because of that is something I'd like to see
7 added in the paper.

8 Robert?

9 MEMBER PEARMAN: One of the pros of the
10 recommended option, if you would, are minimal staff
11 changes required, and I kind of wanted to ask the
12 proponents what is their vision, if you would, of how
13 we'll see this change? Will there be like a new and
14 improved version of Dave Amlin walking before us in the
15 future or will we be seeing more of Tom Cackette and
16 ARB staff and ARB consultants? How do you see this
17 playing out at least in terms of how we see the program
18 and its changes and its improvements in this
19 recommendation being recommended?

20 CHAIR WEISSER: I don't think you can improve
21 upon the existing Dave Amlin model, so no, I don't
22 think we'll be seeing a new and improved Dave Amlin. I
23 do think we would be seeing more of a Tom Cackette, and
24 particularly more of Tom. And I mean Tom Cackette in a
25 very generic sense so please excuse me from that. I

1 think you will see more active ARB involvement in the
2 policy decisions associated with program direction. I
3 think you'll see the same level of involvement in terms
4 of the implementation of the program from BAR.

5 MEMBER PEARMAN: I want to address a point
6 that Dr. Williams brought up in part, and I think, Vic,
7 you responded to one specific example where maybe the
8 issue is not in the implementation or technical
9 deficiencies, if you would, but I do remember when
10 Rocky in his other life showed us a little tour and
11 explained how so many emissions are lost simply by the
12 rules not being followed basically and technicians not
13 doing exactly what they should do each and every time,
14 which is a feature of any sort of bureaucracy. So how
15 will this policy, this change, improve that since BAR
16 still has to implement that? I mean, to the extent
17 there are inefficiencies now, if they have less of a
18 stake, if you would, because they're just, you know,
19 worker bees for ARB, why should that get better, if not
20 worse?

21 CHAIR WEISSER: That's a good question I
22 don't think this proposal really deals with. I don't
23 think you'd necessarily see any change in that regard.
24 I think the BAR folks are doing the best job that they
25 can in terms of enforcement of the program that's in

1 place. I don't think this change would impact that,
2 but – and I'm somewhat uncertain and I kind of hate to
3 leave hanging any inference that you may in your
4 statement have left with the public that there's a
5 perception that there's a lot of bureaucratic
6 inadequacy in the BAR enforcement program. I don't
7 think that was where Rocky was coming from. I think
8 what he was coming from was the reality that you have
9 technicians out in the auto repair world who are not as
10 well trained as would be desirable.

11 You need oversight in order to identify
12 recurring problems with some technicians, be it due to
13 training or be it due to sloppy work. That's a staff
14 issue in terms of how many staff you have. It's also a
15 training issue in terms of the conduits that we use in
16 our community college system and apprenticeship
17 programs and other places to direct high qualified,
18 highly trained people into this industry.

19 I don't think this sort of change directly
20 addresses that at all, nor does this change address how
21 we're going to end the war in Iraq. It's a pretty
22 narrow focus. It's not dealing with a variety of
23 issues that we know that exist and that have been
24 raised before this Committee, it's not dealing with the
25 whole world; it's merely trying to address who calls

1 the shots in terms of policy and program direction for
2 the program, is it ARB or is it BAR?

3 The proponents, the subcommittee, is
4 suggesting that we believe that people would be better
5 served if the decisions on things like cut points, like
6 implementation of pressure testing, like implementation
7 of annual testing for older vehicles or whatever, all
8 those sorts of policy decisions rested with the Air
9 Resources Board.

10 Is that responsive? I'm trying to be
11 responsive to you.

12 MEMBER PEARMAN: Sure.

13 CHAIR WEISSER: Dennis?

14 MEMBER DECOTA: I think, too, that you have
15 to look at the program oversight as it exists today.
16 Personally, I think that BAR does an excellent job in
17 the enforcement area. I think that's why you see the
18 reduction in the differential of performance between
19 test-only versus test-and-repair. I think a lot of the
20 reduction that's come about is because of the triggers
21 and the other mechanisms that are built into the
22 testing analyzers themselves which aid BAR in the
23 enforcement of the program. I think the program itself
24 has gone to the next step, I think it's grown. We must
25 look at the issues that we have seen that is it going

1 to be better in ARB's house versus BAR's house, but I
2 know of literally thousands of shop owners who bought
3 gascap testers that were absolutely worthless, okay.
4 That needed better refinement, need better
5 investigation, yet, you know.

6 I think that certain people have expertise in
7 certain areas. If BAR's expertise is being able to
8 monitor and oversight and enforce the system, that's
9 what they could do best. If Air Resources is to find
10 ways to reduce emissions that are cost-effective, then
11 that should be the area that was in, but that's just my
12 comments. There's a lot of area here that I think you
13 really need to look at that the program has upgraded
14 itself in its ability to track enforcement issues and
15 things like that, to the -

16 MR. TRIMLETT: Can you speak into the mic?

17 MEMBER DECOTA: I'm trying to. Well, that
18 concludes my comments. I hope that helps a little.

19 CHAIR WEISSER: Thank you.

20 MEMBER PEARMAN: In terms of the evap test,
21 the statement was made in the working paper that BAR's
22 been studying this for three years but has not formally
23 proposed new regulations. So is it the law now as it
24 currently stands ARB would be impudent to impose such a
25 test?

1 CHAIR WEISSER: My understanding is it would
2 have to come from the Bureau of Automotive Repair, that
3 BAR has the authority over the Smog Check Program, ARB
4 doesn't.

5 MR. CARLISLE: In most areas when you look at
6 the Health and Safety Code it's the Bureau of
7 Automotive Repair in consultation or cooperation or in
8 conjunction with the State Board. Literally what a lot
9 of this legislation seeks to do is reverse those roles;
10 in other words, ARB would be the primary in
11 consultation with the Department, being the Bureau of
12 Automotive Repair.

13 CHAIR WEISSER: We know that there's a lot of
14 hopefully very constructive consultation and
15 cooperation between BAR and ARB right now, neither
16 agency works in a vacuum on this program. The bottom
17 line of the legislation and this analysis is the
18 recommendation that the switch be (inaudible).

19 MEMBER PEARMAN: The option number four of
20 transfer only the Smog Check Program and staff from BAR
21 to CARB, it seems to me another reason to reject that,
22 unless I'm misunderstanding, is wouldn't you then have
23 two agencies regulating, say, service stations
24 simultaneously?

25 CHAIR WEISSER: That's something I failed to

1 put in the con which is the biggest concern that I have
2 with that issue is the notion of the service station
3 operator dealing with enforcers from both BAR in terms
4 of the normal repair advocacy that they do,
5 investigation that they do, and ARB, and we need to add
6 that in as a con because we want to simplify life for
7 the industry.

8 MEMBER PEARMAN: And my last question is
9 that, and Jude actually commented on this laughingly,
10 but arguably while our Committee was set up supposedly
11 to advise the Legislature, it certainly seems that in a
12 sense we play a bridge between CARB and BAR by the way
13 we're funded and who comes before us and who we report
14 to, so if we're going to give this proposal I think we
15 should consider being, you know, intellectually honest
16 enough to comment about if this should change our role,
17 and if so, describe how.

18 CHAIR WEISSER: I'm not sure how it would
19 change or should change our role, I haven't really
20 thought about it, but I wouldn't mind highlighting that
21 in the analysis that that's something that needs to be
22 looked at.

23 On the one hand, you would have a board
24 actually now responsible for the adoption of the rules
25 and regulations that now are done without public

1 hearing by BAR, you'd have a public process at the ARB
2 that would be done. Does that mean that the role of
3 implementation that this group kind of oversees is no
4 longer necessary? I don't know. You still may want
5 some sort of independent oversight just directed at
6 this program, because I don't know if the Air Resources
7 Board itself will have enough time, considering what
8 they are responsible for, to do the sort of program
9 oversight of the implementation of the program that's
10 necessary. I don't know, I haven't thought of that and
11 I'm glad you raised the issue, Robert, and I think we
12 need to flag that.

13 You remember also in the Sunset Review
14 hearings that were held at BAR last year much was made
15 over some concern of what I guess I'd characterize as a
16 desire on the part of at least some to see a real
17 oversight board with direct authority over BAR come
18 into play because of concerns by some of the industry.
19 I'm not sure that those issues go away with merely
20 transferring policy responsibility and decision making
21 to CARB, I'd want to think that through, but I think
22 you're right, we need to highlight that.

23 It might be an area of potential savings to
24 the state by not having to fund the IMRC, or it might
25 be an opportunity to restructure what the IMRC's role

1 might be. I don't think that's a killer argument one
2 way or another in terms of the basic concept being put
3 in play here as where does program decision making
4 authority, where should that really reside.

5 We'll move to Gideon and then John. Gideon,
6 anything you'd like to chip in? John?

7 MEMBER HISSERICH: As a member of the
8 subcommittee I haven't said a great deal and I don't
9 intend to repeat. I think we've had some very good
10 discussion. I know the points that Bruce raised have
11 been a concern from the outset as to the role of the
12 people that he works with and represents and how they
13 would be accommodated in this, but I think
14 fundamentally, and you've said this Mr. Chairman in one
15 way or the other that it's really government agencies
16 often have multiple roles and goals, they do many
17 different things. I am often reminded of health
18 agencies that combine efficient health care but they're
19 also employers of last resort and a number of other
20 things.

21 I think the thing that attracts me to the
22 option that we're recommending as a subcommittee is
23 that it simply clarifies the goal setting role and
24 makes more explicit that the reduction of air pollution
25 is the fundamental goal of this activity, and rather

1 | than having a dance between two agencies that sort of
2 | drift around that role in the implementation of Smog
3 | Check, I think it simply makes it more clear and
4 | crystalizes that this is the function of this
5 | particular activity and that there's a group of people
6 | within BAR who are adept at carrying it out on the
7 | ground, but that the management of it and the budgetary
8 | authority should more clearly be defined and be within
9 | the scope of the CARB activities, so that's why I
10 | support the recommendations that we have thus far
11 | carried forward and I believe are essentially in
12 | concert with the legislation that's being proposed or
13 | actually worked through the Legislature, if you will,
14 | so that's my view on that.

15 | CHAIR WEISSER: I want to thank you for your
16 | concise summary of the tons of words that I use you
17 | managed to pull together in one paragraph.

18 | Bruce?

19 | MEMBER HOTCHKISS: Yeah, there's a number of
20 | points that Robert raised talking about politics, and
21 | my opinion and based on my observations of ARB is that
22 | they are less likely to bend to the political wind than
23 | an agency that's headed up by someone who's appointed.
24 | My belief is that we would not necessarily have cars as
25 | clean as they are in this world right now if it hadn't

1 | been for ARB, and there was a lot of pressure to stop
2 | that. That's just my opinion.

3 | On the fear that there'd be too many agencies
4 | regulating the automotive repair shops, there already
5 | are, and one more probably won't make a whole lot of
6 | difference. And ARB does have enforcement people now
7 | who have the authority to go into automotive repair
8 | facilities, dealerships. Dealerships are regulated by
9 | Department of Motor Vehicles as well as the repair
10 | departments by the Bureau of Automotive Repair, so I
11 | don't necessarily see that as a big negative.
12 | Obviously, any time it gets confused it's going to
13 | become worse.

14 | And just one little point on the evap
15 | testing. Seems to me that BAR has been either studying
16 | or considering that for a lot longer than three years,
17 | and that's -

18 | CHAIR WEISSER: We might find more out about
19 | that this afternoon.

20 | MEMBER HOTCHKISS: Yeah. And, you know, I
21 | think this is probably one of the primary reasons.

22 | CHAIR WEISSER: Dennis, do you want to hang
23 | around to listen to the public comment or you need to
24 | make an immediate - I tell you what we'll do. I think
25 | that Dennis is sending us a strong signal that we need

1 to take a ten-minute bio break, so calculate ten
2 minutes from the time that you have right now and we'll
3 adjourn for right now for ten minutes.

4 (Off the record.)

5 CHAIR WEISSER: Okay, we will reconvene the
6 meeting, thank you. And now what I'd like to do is
7 open the floor to comments from the public and agencies
8 regarding the legislation and regarding the Committee's
9 draft analysis, still a work in progress, and any
10 suggestions you have in terms of how we might improve
11 that would also be welcome. Mr. Keller.

12 MR. KELLER: Good morning. I'm Marty Keller
13 and I am Executive Director of the Automotive Repair
14 Coalition. Although I'm not speaking on behalf of the
15 Coalition in my remarks, the Coalition hasn't taken any
16 position on this legislation, so I just want to make
17 sure that's clear on behalf of my client, but I do have
18 some insight into some of these issues having spent, as
19 you noted earlier, Mr. Hotchkiss noted, having spent
20 time as chief of the Bureau of Automotive Repair.

21 I'm now currently working with the automotive
22 industry on issues dealing with regulation and the
23 achievement of the goals that the State of California
24 sets forth in statute, and I wanted to just really
25 address what really underlies, I think underlies the

1 impetus for this conversation and perhaps also for this
2 bill, and that has to do with the fact that the heart
3 of this program is enforcement, and the real question
4 is how do we achieve the air pollution improvements and
5 reductions in toxic emissions that we as a country have
6 set forward in our national and state air quality
7 statutes.

8 I just want to point out that there's a real
9 difficulty in Smog Check that is different from the
10 difficulty in all of the other emission programs and I
11 think if we don't name it, it's going to make this
12 conversation somewhat out of the context that we really
13 ought to establish, and that is this:

14 When we seek to reduce stationary source
15 pollution, we hold the people that produce or that own
16 the equipment that produces that pollution, we hold
17 them accountable for getting those reductions. In
18 mobile source, when we're dealing with airplanes, when
19 we're dealing with railroads, when we're dealing with
20 heavy duty trucks, we hold the owners of the equipment
21 that produces the pollution accountable for achieving
22 those results or there are sanctions that occur if
23 these are not done. But when it comes to Smog Check
24 and when it comes to light duty vehicles, we actually
25 don't hold the owner of the vehicle responsible and

1 accountable for that, we hold either the government
2 agencies and/or the people that fix the vehicles to be
3 the primary enforcement of our statutes, and therein
4 lies the challenge in having a robust mobile source
5 program that goes to what Ms. Lamare referenced, which
6 is that we're now going to an even more stringent
7 standard, meaning that we want to achieve even greater
8 reductions.

9 And I will tell you from the time that I was
10 in the Smog Check Program continuing through the
11 subsequent administrations and until just within the
12 last couple of months with the launching of the Breathe
13 Easy Campaign there really has never been a concerted
14 effort to enroll motorists and the owners of the
15 vehicles in this, and one of the reasons is because
16 we've never held them accountable, and so what happens
17 is, by putting the enforcement of this program in a
18 consumer protection agency, we've put the agency in a
19 conflict position which the agency then transfers down
20 the line to the owners of the shops, which is that it's
21 the people that go to the station are considered
22 consumers but they're actually producers of emissions
23 until they consume repair services and get those
24 vehicles in compliance.

25 So the challenge that we have here is, if

1 shifting authority from one agency to another doesn't
2 address the issue of holding the owners of the vehicles
3 that produce these emissions accountable, we're only
4 shifting a problem, we're not solving it. There are
5 many other issues I'd like to address but my time is
6 up.

7 CHAIR WEISSER: We'll, I think, have
8 opportunity for additional comments after everyone
9 else, Marty, has had a chance to present their views.
10 Are there questions or comments from members of the
11 Committee to Marty?

12 Marty, I think you've nailed an important
13 issue right on the head, and that's been our, and I
14 view 'our' as the state, IMRC, all stakeholders. We
15 fail to do precisely what you've said. We fail to
16 inculcate the public with the same attitude toward
17 smoking vehicles as smoking citizens, you know, where
18 it's seen as just socially unacceptable to smoke in a
19 way that has direct impact on other people. We haven't
20 yet accomplished that cultural shift in terms of the
21 Smog Check Program.

22 I don't believe that this change alone is
23 going to do anything toward that, to that directly;
24 however, I do think that certain doors might open at
25 ARB for exploration of that that right now are not

1 particularly attractive to folks at BAR, apparently, so
2 I'm hopeful this would re-open that sort of discussion.
3 And in fact, I think that's one of the issues that we
4 may put into our report as something that we would hope
5 that that sort of almost cultural change needs to be
6 highlighted.

7 MR. KELLER: I invite you then to consider
8 and look at this a little bit more carefully, because
9 if you're leaving the enforcement field level
10 responsibility where it is, I don't know if you're not
11 really addressing this issue.

12 CHAIR WEISSER: Okay. Thank you. Other
13 comments from the audience? Start from the front,
14 Charlie?

15 MR. PETERS: Mr. Chairman, excuse me, I was
16 in the process of having my mouth full (inaudible)
17 called food.

18 Mr. Chairman and Committee, at the hearing
19 the only person who testified in opposition to the bill
20 was myself. The bill is supported by Ms. Lamare's
21 organization. This indication that the author of this
22 bill or the legislator carrying it has just decided
23 that it's the appropriate thing to do somehow or
24 another just doesn't ring any bells for me. I've never
25 seen her here at these meetings, never seen her

1 participate. Somebody carried that idea to her. Mr.
2 Chairman, you have two lobbyists working for you and
3 it's been certainly an issue that you seem to have some
4 real passion on.

5 CHAIR WEISSER: Would you put a hold on his
6 time for a second? I state categorically I had no
7 conversation nor did any lobbyist that works for me or
8 consultant or staff member that works for me with that
9 office associated with this bill prior to its
10 introduction.

11 Put him back on. Thank you.

12 MR. PETERS: Thank you for clarifying that,
13 but your organization does have a number of people
14 involved and you do communicate significantly on these
15 issues and have for a very long time, and have been a
16 primary lobbyist impacting Smog Check policy for a very
17 long time, so from my perspective as I see it.

18 Okay. The fact that this is on the table and
19 being discussed I think is good. Mr. Keller was just
20 up here. I have in my book here a letter that I sent
21 to him shortly after he took over as chief of the
22 Bureau of Automotive Repair making very specific --
23 providing specific opinions as to how the program might
24 be improved. Never saw any of those addressed at all.
25 I thanked him very much for allowing us to participate

1 and asking questions of us, but I didn't see any
2 concern or interest in my opinions from Mr. Keller in
3 that regard.

4 So the fact that it's out and it's open and
5 on the table and it's getting some discussion has some
6 real possibility of maybe making some improvement in
7 how the public is being treated here, the effectiveness
8 of the program, making it work better, so that's
9 probably good.

10 Yesterday I took to the secretary and
11 requested to talk to him for probably about the
12 fifteenth time (inaudible) that I've provided the
13 Legislature, so I think this is good. Thank you.

14 CHAIR WEISSER: Thank you very much, Mr.
15 Peters.

16 Ms. Lamare.

17 MEMBER LAMARE: Charlie, question. You
18 referred in your comments to Ms. Lamare's organization,
19 but since I am an independent contractor and I don't
20 work for any particular organization, I think it would
21 be helpful if you would identify in your comments who
22 you are referring to so people know, you know, who you
23 were referring to. Can I help you to do that?

24 Mr. Chairman, I have a problem with being
25 referred to in such a vague way. I think, but I don't

1 know, that Mr. Peters was saying that the lobbyist for
2 the American Lung Association of California was present
3 at the hearing. I don't know, I wasn't present at the
4 hearing, so I've tried to clarify his comments for the
5 record.

6 Charlie, is that the case that you were
7 referring to the American Lung Association of
8 California lobbyist Bonnie (inaudible) at yesterday's
9 hearing on the Lieber bill?

10 CHAIR WEISSER: I think you've done a good
11 job in clarifying that that was the organization on
12 behalf whose comments were made.

13 MEMBER LAMARE: I don't - I was not present,
14 Vic.

15 CHAIR WEISSER: Oh, so you're not sure.

16 MEMBER LAMARE: I was not present. I do know
17 I was told by various air districts that they were
18 going to support the Lieber bill.

19 CHAIR WEISSER: Um-hmm.

20 MEMBER LAMARE: I believe that Bonnie
21 (inaudible) told me American Lung Association would
22 support it, but I'm not sure and I wasn't present at
23 the hearing.

24 CHAIR WEISSER: Charlie, is that something
25 that you would like to clarify for the Committee and

1 the audience as to who you were referring to in terms
2 of yesterday's legislative hearing? And the record
3 will note that he's declined the opportunity to clarify
4 the comment. Thank you.

5 Any other questions or comments additional?
6 We're working from the front backward.

7 MR. TRIMLETT: Len Trimlett, smogrfg. I'd
8 just like to ask one pointed question. Who is the
9 sponsor of the Lieber bill AB386?

10 CHAIR WEISSER: That's a good question, who
11 is the sponsor?

12 MR. CARLISLE: I'd have to find out, I don't
13 know.

14 CHAIR WEISSER: Okay. I don't either. I
15 just want to make it clear, the Committee's response to
16 what occurred during the period of time when we were
17 discussing and adopting our report to the Legislature
18 in January was to put this on our agenda as something
19 we were going to look at in the next several months.
20 The Committee had taken no action to try to get this
21 issue directly addressed by the Legislature. We
22 thought it would be, you know, wise to do an analysis
23 of it and see what the Committee members thought. The
24 issue has come before us now because I think what
25 occurred in January, you know, got around and

1 stimulated observers to come in contact with the
2 author, but I don't know who the sponsor is.

3 MR. CARLISLE: In answer to the question,
4 there is no sponsor on this bill.

5 CHAIR WEISSER: Okay.

6 MR. TRIMLETT: It didn't come out of nowhere.

7 CHAIR WEISSER: No, but you know, there are a
8 lot of people, Len, who observe what's going on here,
9 including legislative staff. The actions of the
10 Committee were reported in trade journals and air
11 districts were present and conversations take place.
12 That's what I -- that's my assumption.

13 MR. TRIMLETT: But there has to have been
14 some direct force and that is what I want to know.

15 CHAIR WEISSER: And I can't directly answer
16 it. I can tell you categorically that it was not this
17 Committee.

18 MR. TRIMLETT: I have a problem with this
19 bill for a couple reasons. Number one, like was stated
20 this morning, CARB does not have a history of working
21 with the public. I have a problem in that I've tried
22 to work with CARB on remote sensing and have got
23 absolutely no response. In fact, I've got more just
24 totally avoiding the issue on that subject.

25 I've had lots of discussions here on the

1 test-only issue on trying to get information on that.
2 I feel like we as consumers, the only thing test-only
3 is doing is draining our pocketbook and I don't like
4 it. And I'm saying personally I don't like it either
5 way. I feel like we're getting the shaft.

6 So I'm saying I think a very relevant
7 question is, who is the driving force, because the
8 first I heard of this issue transferring from CARB to
9 BAR was when you talked about it right here, so I think
10 that's a very relevant issue to this discussion.

11 And I think what this needs - well, for
12 Judith Lamare to say this is generated discussion,
13 you've got to remember, Judith, what we do here doesn't
14 necessarily affect what happens ten blocks up the
15 street. They're going to do what they want regardless
16 of what we do here, so in some ways this discussion to
17 me is academic, but I'm not in agreement with that
18 transfer. Thank you.

19 CHAIR WEISSER: Thank you. Rocky?

20 MR. CARLISLE: Clarify a little bit. First
21 of all, Mr. Chris Walker did just call Assemblywoman
22 Lieber's office and they stated that she is the sponsor
23 and the author of the bill, number one. And while it
24 may not have had a sponsor, it's my understanding too
25 from staffers during the hearing yesterday it has

1 significant support with very little opposition, and so
2 it seems to be well supported at this point in time.

3 CHAIR WEISSER: Thank you. Sir.

4 MR. MOW: Mr. Chairman, my name is Vince Mow,
5 I'm an independent consultant dealing with air quality.
6 I'm going to just comment from the experience I've had
7 working with both agencies since about '99, and my
8 recollection is, although it may go a little earlier
9 than that, but it was about in '99 when the Bureau of
10 Automotive Repair approached manufacturers with the
11 mission of achieving an evaporative emission program in
12 Smog Check, and my understanding was that actually that
13 the history of that measure goes back a little further,
14 that it was actually present in earlier versions of the
15 SIP, although I couldn't tell you which ones, and then
16 amended out of the SIP and then only put back in fairly
17 recently, but in about '99 there was an effort to
18 mobilize resources to create an evaporative emission
19 program.

20 In about 2001, the Bureau of Automotive
21 Repair decided that the existing technology was not
22 sufficient for the Smog Check Program to begin
23 investigating their own alternatives and actually
24 became involved in the business of technology
25 development within the Bureau. As of that time there

1 were already three states performing evaporative
2 emissions inspection and those three states still are –
3 Arizona, Delaware and Kentucky – and have achieved some
4 dramatic reductions probably in the five or six years
5 that effective testing has been going on in other
6 states. We're talking about probably hundreds of
7 thousands of tons of total reductions if you add all
8 the programs together.

9 I guess that, although I have a great deal of
10 admiration for the staff and the agencies themselves,
11 they've achieved some remarkable things. ARB is
12 thought to be one of the premier researchers in
13 emissions technology in the world. I've seen BAR staff
14 go through amazing effort and dedication to achieve
15 some of the objectives that they have in promoting and
16 creating the Smog Check Program, but some of the
17 problems that we have here are that the focus that BAR
18 had on implementing this technology was really focused
19 more around technical facets, anti-fraud and things
20 like that.

21 The fact is that if we would have implemented
22 the technology that was available in '99, we wouldn't
23 be here in 2005 realizing that the benefits weren't a
24 ton and a half a day. The most conservative estimates
25 I'm getting from ARB and BAR today are twenty tons per

1 day going up to about forty tons per day. We wouldn't
2 have foregone the benefit of 7,000 tons per year or
3 more of HC reductions while we were waiting to develop
4 the perfect technology.

5 One thing I was wrong about is that in about
6 2003 when BAR abandoned their efforts to improve the
7 technology themselves, the manufacturers came back and
8 said, well, maybe we can do better than we thought we
9 could. I really didn't think we could achieve the
10 great technical perfection that we have achieved today,
11 but the fact is we have a better program than was ever
12 used in any other state to achieve a single ton of
13 evaporative emission reductions and we're prepared to
14 go ahead and do that, but in the meantime we have
15 literally seen the absence of tens of thousands of tons
16 of benefits (inaudible).

17 So I guess my point is simply that I can't
18 comment on how the organization should be put together,
19 but there is a problem in the linkages between the
20 implementing agency and the agency that's responsible
21 to the state and the federal EPA for reductions.

22 CHAIR WEISSER: Thank you very much.

23 MR. NOBRIGA: Larry Nobriga. I'm
24 representing Automotive Service Council of California.
25 You know, which way do you go on this? It's a

1 difficult thing. On the one hand, I look at Ms. Lamare
2 and one of the things she mentioned was the quality of
3 the repairs that are being done.

4 Now, as a test-and-repair station, it's my
5 job to get the car to pass, all right? And BAR would
6 love me to do that at the least possible cost to the
7 consumer, but at the same token, they want the least
8 amount of repair, otherwise we get into selling more
9 than we need, so we're caught kind of in a dilemma.

10 On one hand, if ARB was the primary
11 administrator of the program, then you wouldn't be so
12 concerned necessarily about the consumer. By the same
13 token, you might not necessarily be concerned with the
14 industry either, so everybody takes a beating. On the
15 other hand, with BAR there, you know, we have a
16 problem, it's really that simple.

17 CHAIR WEISSER: Very eloquent, Larry. I
18 frankly think every state agency in the Executive
19 Branch has to be concerned about consumers, just
20 because of the nature of state government I think they
21 are. And they also have to be concerned about the
22 stakeholders in the industry. How they factor those
23 in, I imagine varies some, but I don't believe it's a
24 black-or-white situation.

25 In the back.

1 MR. CONWAY: John Conway, Menlo Park Chevron.
2 I'm also on the board of SERA. I've been very excited
3 about this bill because I think it's an opportunity to
4 fix the Smog Check Program. For as long as I've been
5 in business, over thirty years, this program has been
6 filled with controversy, full of issues, nobody's ever
7 been happy with the program, so I'm excited. Whether
8 we restructure it or overhaul it, I'm excited about
9 this.

10 And another portion is I think that it's very
11 significant whoever ultimately runs this program, we
12 have got to have open dialog between shop owners and
13 ultimately our consumers on the issues before us.
14 These issues that were enacted by the Legislature of
15 redirecting cars, et cetera, et cetera, and as a shop
16 owner I was kept in the dark, I had no idea this was
17 going on, so whoever ultimately runs this program,
18 we've got to have open dialog. I'm a real proponent of
19 this. I make business decisions running my business
20 based on what the State of California is telling me to
21 do or what they're ultimately going to give me in
22 business.

23 And one other suggestion. I think if we go
24 through restructuring or overhaul of the system here
25 and if there's an establishment of subcommittees, I

1 think other entities in this industry need to be on
2 these subcommittees. We need input from all segments
3 of this business. This automotive repair industry is a
4 huge industry in the State of California and we do need
5 input from all segments of the industry.

6 CHAIR WEISSER: Thank you very much. I saw a
7 hand somewhere else in the back.

8 MR. RICE: Good morning, Bud Rice with
9 Quality Tune-up Shops. I thought I'd bounce real quick
10 to some questions regarding the budgeting, and I was at
11 the hearing yesterday and did take some fast notes. If
12 I'm a little bit off maybe Rocky could clear this up a
13 little bit.

14 What I wrote down was that there was \$90
15 million worth of income off the Smog Check Program in
16 total, is what I heard. \$8 million from repair
17 dealers. I think you said 9, Rocky, but what's a
18 million dollars among friends, right? And then I wrote
19 down that \$30 million of money was spent by the BAR
20 specifically on the program. One comment that Ms.
21 Lieber said is, 'I don't know where the other money
22 went.' I don't know what kind of a comment that was,
23 it was kind of a strange comment (inaudible). So out
24 of the 90 million, 8 million coming in from repair
25 dealers, 30 million being spent on the program, those

1 are the numbers that I wrote down yesterday.

2 A couple things. One thing that I'm a little
3 nervous about in terms of moving the administration of
4 the program from BAR to ARB is in terms of
5 stakeholders, and you were saying that earlier Mr.
6 Chairman, and without that connection to stakeholders,
7 I'm not quite sure what's going to happen next, so
8 let's just make up a story, okay?

9 If in fact ARB decides that remote sensing is
10 really the way we ought to be going and they say let's
11 stop Smog Check, let's go to remote sensing even though
12 a lot of the studies about the technology haven't been
13 fully formulated yet, all of a sudden BAR is now the
14 dog being wagged by the tail, so to speak, and now
15 we're being chased around by that as opposed to them
16 saying now I've got customers, I've got repair shops,
17 I've got equipment manufacturers that are out there;
18 how can we make the thing work the best? So I'm a
19 little concerned in terms of from organizational
20 structure to policy what happens next.

21 Also, the other thing that I have a little
22 trouble about is there was a lot of presence from ARB
23 yesterday at the hearing and not a lot of
24 representation from BAR. Even today BAR's taken shots
25 and you just don't hear anything about it, and I'd like

1 to hear whether or not they've got some concerns about
2 the program being moved from their umbrella to some
3 other umbrella, and I guess I've got some concerns as
4 to why they don't stand up and support their own
5 program, so I'm a little concerned in that regard.

6 And finally, in terms of managing the program
7 for the best possible air reductions, and again Mr.
8 Chairman you made some comments about that, there's a
9 lot of horse trading that kind of goes on here, and two
10 meetings ago Sylvia said, well, if we take these cars
11 out of the program we're going to make up for those
12 reductions by some moves we're going to make over here.
13 I would think if you're going to go for the best
14 program, you'd get these reductions plus go get those
15 reductions, so why horse trade these things around?
16 Why not go get the best all the time? Thank you.

17 CHAIR WEISSER: Thank you very much.

18 MEMBER HISSERICH: Mr. Chairman, I have a
19 quick question.

20 CHAIR WEISSER: Please, John.

21 MEMBER HISSERICH: None of the preceding
22 speakers sponsored this bill either, did they?

23 CHAIR WEISSER: I don't know; none of them
24 owned up to it.

25 MEMBER HISSERICH: All right, just wanted to

1 clarify.

2 CHAIR WEISSER: Are there other members of
3 the public that would like to say something? Mr.
4 Keller?

5 MR. KELLER: Marty Keller, Bureau – not
6 Bureau. Paging Dr. Freud. Automotive Repair
7 Coalition. And I know that Chris Walker (inaudible)
8 said not again. I just actually would like to follow
9 up a little bit on what Bud had to say and just what I
10 wanted to raise and I believe as Mr. Pearman had said,
11 the devil's in the details, and with respect to the
12 issue of teasing out the consumer protection operation
13 from the Smog Check operation, there are significant
14 issues that are going to have to be looked at with a
15 lot of deliberation, so when your subcommittee is
16 taking a look again at some of these things, it's
17 really – it cannot be treated cavalierly.

18 CHAIR WEISSER: Would you like to enumerate
19 some of those things?

20 MR. KELLER: Well, I think first of all the
21 budgetary issue is there, and then secondly, I don't
22 know what the Bureau's current practice is, but in the
23 past there's been a practice of moving people back and
24 forth between different sides of the house for training
25 purposes and for rotation purposes, for experiential

1 purposes and so forth and so on.

2 As a matter of fact, in 1994 my predecessor
3 got the budget committee to agree to merge what at that
4 time was two separate funds. Until 1994 all Smog Check
5 certificate fees were going into one fund and all the
6 fees that were coming in for licenses and registration
7 and so forth were in a separate fund, and then the
8 Legislature agreed to merge those into one fund under
9 the concept that repairing a vehicle has an impact on
10 air quality regardless of what the repair is, so there
11 was a commingling of funds at that time, and up until
12 that time the Bureau was required to report budgetarily
13 on specific application of the appropriations from the
14 two different funds. That hasn't happened any more,
15 and I don't know, in the Wilson administration we
16 worked hard on keeping track of those, but it was a
17 very difficult thing to track, and I don't know if that
18 was continued in subsequent administrations.

19 So the whole question of how you would remove
20 and make discreet – in other words, you'd be creating a
21 firewall within this agency if you move the budgetary
22 control of the Smog Check fees to the Air Resources
23 Board and let the Department of Consumer Affairs figure
24 out how the heck it's going to manage the rest of its
25 mandate with what supposedly is left. Now, that will

1 put pressure on raising fees perhaps on the other side
2 of the house, which would create political issues of
3 its own. So I just think it's important not only with
4 respect to external revenue but how the current
5 operation has sort of intertwined the issues of the two
6 different parts of the mission into its management and
7 operation.

8 CHAIR WEISSER: That's a good issue and I
9 think one that really needs exploration and we should
10 highlight that in our paper. I think it applies to all
11 alternatives, including the existing alternative, and I
12 think it's time to look at that, is it appropriate that
13 the Smog Check Program be paying for the other program.
14 I don't know, it might be.

15 Len?

16 MR. TRIMLETT: Len Trimlett, smogrfg. Since
17 my question was not answered on the last go around, I
18 will rephrase the question. I asked the question who
19 is the sponsor of the bill. The answer came back
20 Assemblywoman Lieber. Assemblywoman Lieber is the
21 author of the bill. Who's pulling her chain? That's
22 what I want to know. Rocky?

23 CHAIR WEISSER: Rocky, you don't need to
24 respond to that, I'm going to. I'm going to urge you,
25 Len -

1 MR. TRIMLETT: I want to know who's the
2 sponsor of the bill.

3 CHAIR WEISSER: I'm going to urge you, Len,
4 to use a more respectful phrasing when dealing with an
5 elected member of our Assembly.

6 MR. TRIMLETT: I want to know who's the
7 sponsor. I apologize and I will say who is the special
8 interest that is driving that bill?

9 CHAIR WEISSER: And I will respond to you
10 this way. Assemblywoman Lieber has an historic
11 interest in the Smog Check Program. We saw that over a
12 period of several years. What I heard Rocky say is
13 that she is saying she is the sponsor. One way or
14 another, obviously, she has become informed of these
15 issues and, you know, I think she decided she wanted to
16 put something in to take some sort of action on them.
17 I mean, I don't know. Call her up, ask her.

18 MR. TRIMLETT: Okay.

19 CHAIR WEISSER: I don't know what to tell
20 you.

21 MR. TRIMLETT: I will close by saying that my
22 choice of words may not have been the best. I accept
23 that, and I rephrased.

24 CHAIR WEISSER: Thank you. Other comments
25 from the audience? Are there anybody from any of the

1 agencies that are here that would like to share
2 perspectives or views or suggestions? Noted that both
3 the ARB, BAR and EPA are here and they're choosing not
4 to speak. This is not unusual. In dealing with
5 matters of legislation, every agency is subject to a
6 review process prior to their willingness or ability to
7 take a position on a bill, and I'm sure, I'm confident
8 that we will hear something from the agencies either in
9 the Legislature or with this Committee. The agencies
10 have a lot of very thoughtful people and these are not
11 simple issues. Anyone who claims they are is mistaken,
12 they're complicated.

13 With that, folks, I am ready to entertain a
14 motion as to what this Committee's position should be
15 on the measure in the legislation.

16 MEMBER LAMARE: Vic, could I make a comment?

17 CHAIR WEISSER: Oh, please Jude.

18 MEMBER LAMARE: Sorry. I'd like to just make
19 a comment about who is sponsoring this legislation that
20 Len has asked this Committee to answer that question.
21 This Committee obviously cannot answer that question,
22 it belongs to the author's office, but I would like to
23 say that I have seen numerous emails from the author's
24 staff to the environmental community saying we are
25 looking for a sponsor for Ms. Lieber's bill. Those

1 emails tell me that there is no special interest
2 pulling, quote, 'her chain,' that the author has an
3 interest in how the Smog Check Program is being managed
4 and directed, she's concerned about air quality and she
5 introduced the bill and is looking for sponsors. I
6 hope that answers your question, Len.

7 CHAIR WEISSER: Thank you. Okay. We have
8 before us an issue associated with whether or not this
9 Committee should take a position on the legislation.
10 We've heard many good suggestions as to how to modify
11 the draft analysis that we would use to support that
12 position and I presume submit that information to the
13 Administration and to the Legislature. I don't know if
14 we've had a motion made on this yet. I don't believe
15 so, it was that earlier bill, so is there anybody that
16 would like to make any sort of motion associated with
17 this measure? Mr. DeCota.

18 MEMBER DECOTA: I move that we support AB386
19 by Assembly person Lieber.

20 CHAIR WEISSER: Thank you. Is there a second
21 to the motion? Seconded by Mr. Hotchkiss. Is there
22 any discussion on the motion? Mr. DeCota.

23 MEMBER DECOTA: I have a tendency, I think it
24 was discussed, on option number five, as I understand
25 option number five - I'm on the wrong bill. Please

1 forgive me.

2 CHAIR WEISSER: But your motion still stands.
3 Mr. Pearman.

4 MEMBER PEARMAN: First, do we have any sense
5 of the speed of this legislation going through and, you
6 know, do we have to get our comments in now rather than
7 next month, anything like that, before it becomes law?
8 I mean, what's the practicalities of when we have to
9 move to influence this given its stage?

10 CHAIR WEISSER: The bill has just passed its
11 first committee. I'm unclear as to how it's been
12 referred. If it's been double referred or anything
13 like that it would have to go, presuming it hasn't been
14 double referred, which is the simplest approach, it
15 would, and I'm not sure if it's referred to Fiscal
16 Appropriations Committee and I suspect it would be, I
17 think it would have at least one more committee hearing
18 on the Assembly side before it would go down to the
19 Assembly floor. It could have two more hearings if it
20 goes to Government Operations, then it would go to the
21 Assembly floor for a vote.

22 If it were to pass out of the Assembly, it
23 would then go over to the Senate in which it would go
24 through a similar sort of series of review by Policy,
25 Fiscal and other committees prior to going to the

1 Senate floor.

2 So the chances of speedy action on this
3 measure, and I might add on any measure in California,
4 is somewhere between nil and very little. We will have
5 a lot of opportunity, as Jude pointed out at the
6 beginning of this discussion, to have a public
7 discussion of the existing situation and the potential
8 ways that it might be improved through the hearing
9 process.

10 MEMBER PEARMAN: And then my second question
11 is, what were the expectations, if any, of the
12 subcommittee's report; did you foresee us today or in
13 the next meeting refining that if we agree to it and
14 then give us some proposal? If this legislation got
15 passed, what did you see as being the result of that
16 track?

17 CHAIR WEISSER: My expectation, if you're
18 asking me directly, would be that the Committee could
19 take a vote on the motion that's in front of it. If
20 it's the Committee's will, we would be able to inform
21 the author of a position. We would then take the
22 information, suggestions that have been made and noted
23 by Rocky through this discussion to modify this draft.
24 We would send around that draft for your review and
25 then submit that draft. We could either submit that

1 draft as part of the legislative process or, if you
2 would prefer, it's a separate issue but we could bring
3 it back to the Committee for a final look-see and
4 submit it to the Legislature and Administration as a
5 report from the IMRC.

6 I frankly don't think it matters which way.
7 I think it's desirable for us to be up front and get
8 out on the table what our thoughts are pro and con
9 sooner rather than later, so I would probably suggest
10 we just send this in as a report of the Committee to
11 the Legislature and the Administration in relationship
12 to the legislation. That would be my suggestion.

13 Did that respond to your question?

14 MEMBER PEARMAN: Yeah. I guess the way I
15 would take it is that I would like to see us get the
16 report back to the Committee to finalize and approve it
17 before it gets sent in.

18 CHAIR WEISSER: We can certainly accommodate
19 a review process, but do it in a way that we don't have
20 to wait for another meeting in order to do it.

21 Any other comments? Gideon?

22 MEMBER KRACOV: Just a clarification. You
23 said we would inform the author of a position taken on
24 the bill. How would that look and how would that,
25 especially if we do it after our discussion and vote

1 today, how would that enable us to account for some of
2 the nuances of this very important issue when
3 expressing our opinion?

4 CHAIR WEISSER: Well, the most important
5 thing from an author's perspective is to know where you
6 stand on the fundamental thrust of the measure. I
7 think it would be incumbent upon us to attempt to
8 refine the draft that we have here as soon as possible
9 and get that to the author and other interested parties
10 within no longer than two weeks. I don't believe that
11 this will be up for hearing within the next couple
12 weeks, but I don't know what the hearing schedule is.
13 I mean, it usually takes quite a while, but we should
14 move as quickly as we can to refine this so that it's
15 satisfactory for the Committee members and get it out.

16 Was that responsive?

17 MEMBER KRACOV: But potentially a letter
18 expressing our opinion would go out first.

19 CHAIR WEISSER: Well, I think frankly in this
20 sort of situation what I'd suggest is just Rocky call
21 the staff and say the Committee took this vote and
22 they're supporting the bill and will be following it up
23 with a letter or, you know, this analysis as soon as
24 possible.

25 Dennis?

1 MEMBER DECOTA: I don't want to get in
2 trouble. I think what I hear Gideon saying is will the
3 Committee have a chance to work with the author to make
4 suggested amendments to the bill in order for the bill
5 to more use the talent of the IMRC for hopefully its
6 proper purpose in that method? Go ahead, Rocky. I'm
7 sorry.

8 CHAIR WEISSER: Let me interject before Rocky
9 does. I think the Committee has the opportunity to
10 work with the author at any time and I would see
11 nothing that would foreclose that, regardless of the
12 position that the Committee takes, whether the
13 Committee chooses to take a position today or not take
14 a position today or either oppose the bill or support
15 it, we can still work with the author and provide
16 suggestions.

17 Jude?

18 MEMBER LAMARE: On that point, I would
19 suspect that the bill, if it will be amended, will be
20 amended in the Senate. It will not get to the Senate
21 for another month at least, and that our Committee has
22 another opportunity to have a hearing and review
23 potential suggestions to the author for amending the
24 bill that will be timely later on in the session. I
25 mean, it's not going to probably go to Policy and the

1 Senate until August, right? So let's – I frankly favor
2 the motion. I think the advice that we might give
3 about amendments and dialog back and forth and so on
4 would make good use of this Committee to have further
5 public discussion on those issues at our subsequent
6 meetings.

7 CHAIR WEISSER: Thank you. Dennis?

8 MEMBER DECOTA: I would also like at one
9 point in the process if the Committee has the
10 opportunity to review the information to also consider
11 sponsoring this bill.

12 CHAIR WEISSER: Very good. That's something
13 I guess we should consider after we come up with a
14 paper that enjoys the support of a majority of the
15 Committee members, and I don't know whether the IMRC
16 ever has or can sponsor legislation. You know, there's
17 no legal term associated with sponsoring a bill, it's
18 not a legal issue, it's just whose idea was it. I
19 don't know, it's an interesting notion.

20 Robert?

21 MEMBER PEARMAN: Well, first, I know later I
22 guess we're still going to talk about whether we meet
23 monthly or bi-monthly, but I'm assuming we're going to
24 meet next month so we could respond to this if we do;
25 that's the first question.

1 CHAIR WEISSER: I suspect that we will be
2 meeting next month. We'll get into this bi-monthly or
3 monthly thing after lunch.

4 MEMBER PEARMAN: All right. And I think my
5 preference would be to have us, if we get the votes, to
6 support the concept of the bill, but I would like us to
7 state that after next month's meeting we'll then have a
8 report to send them (inaudible) we get that report
9 back. Also to be fair to our audience which hasn't
10 seen this draft report and let them see all the
11 language we put in there so they can give us the full
12 benefit of their wisdom on the entirety of the comments
13 in that report. It sounds like timing-wise it wouldn't
14 be inappropriate to wait a month for that report to go
15 to the Legislature.

16 CHAIR WEISSER: What I'd like to do, Robert,
17 I'm not sure I agree with you. I think that there are
18 some advantages of getting this, once we agree on
19 what's in it, the changes that we talked about, out to
20 the public, but I'm wondering if we should separate
21 that issue and have first the Committee decide on
22 whether we support the concept or not and then have a
23 discussion about when should we follow up whatever sort
24 of verbal indication of the position of the Committee
25 with a written one. Can we separate that? Okay.

1 Gideon?

2 MEMBER KRACOV: Okay. That seems to make
3 sense and I'm not sure if that's inconsistent with what
4 Bob was just referring to, but I think that this is a
5 very big issue and it is very much in line with the
6 legislative (inaudible) of this Committee. We have
7 expertise, we have the ability to listen and gain
8 understanding from the public and the regulated
9 community. I think that our work product on this can
10 be a very important aspect of this very important issue
11 which is fundamental to the whole program, so I'm not
12 opposed to the idea of supporting the legislation, the
13 vision for the legislation in principle, but with a
14 firm timeline that we're all understanding as to a
15 priority to get some work product out to the public and
16 then to the author of the legislation so that our sense
17 that we like the thrust of the bill can really have
18 some meat and backbone to it. I think that our work
19 product will be a very beneficial part as the
20 legislative process goes forward.

21 CHAIR WEISSER: You know, I guess I'm going
22 to, you know, actually change my mind and react to what
23 I'm hearing and propose in terms of the communication
24 portion of our decision that initially what we do is
25 write a very simple letter regarding what position the

1 Committee does take on the bill and indicate in that
2 letter that the Committee is working on a more detailed
3 analysis which we'll be submitting to them as soon as
4 possible, thus allowing it to come back to us at our
5 next Committee meeting, period.

6 I'm going to, just as a matter of course, you
7 know, since the advent of the Xerox machine, anything
8 you put down on paper be prepared to read about. I
9 would not be surprised if what we've done so far
10 becomes public or other things, and I don't think
11 that's a problem frankly. I've heard nothing that I'm
12 embarrassed about or think anyone on the Committee
13 should be embarrassed about. I think we had a pretty
14 open discussion today. There have been some good
15 suggestions on improving it.

16 The subcommittee, with Rocky's help, will
17 attempt to incorporate many if not all of the things
18 that we've gotten from the Committee and some
19 suggestions from the audience and we'll try to get
20 something back out to you within a couple of weeks so
21 that you have a chance to react to it and give us
22 suggestions prior to the next meeting so we can make
23 another round of modifications and then have a public
24 discussion.

25 John.

1 MEMBER HISSERICH: Can I just make clear with
2 the maker of the motion that I would concur with my
3 colleagues here that I think that agreement in concept
4 at this juncture is the most appropriate step. And
5 since the motion I think that was made was to support
6 the bill, just to be clear that, or I hope that we can
7 modify that to say that the specific language is not
8 what we're supporting, it's the concept behind it. I
9 just want to be clear where we are on that.

10 CHAIR WEISSER: John, in fact, I think the
11 bill is written at a pretty broad level.

12 MEMBER HISSERICH: Right.

13 CHAIR WEISSER: It in and of itself is
14 conceptual.

15 MEMBER HISSERICH: Right.

16 CHAIR WEISSER: What I heard from Rocky is
17 that there is going to be an amendment to try to take
18 care of the dozens of code sections. There's a lot of
19 technical stuff that has to take place. I'm not
20 uncomfortable with the notion if the maker of the
21 motion would agree to have our letter say that the
22 Committee is voting to conceptually support the
23 direction taken in your measure, that we understand the
24 measure is going to be subject to amendment, that we
25 look forward to working with you on this and are going

1 to be working on providing additional supporting
2 information associated with the measure, something very
3 simple like that.

4 MEMBER HISSERICH: Yeah.

5 CHAIR WEISSER: But I can't do that, the
6 maker of the motion has to.

7 MEMBER HISSERICH: Well, I think it was
8 Dennis.

9 CHAIR WEISSER: Dennis, that's a proposed
10 amendment to your motion. Is that something you're
11 comfortable with, or if not, so be it, we'll vote on
12 the original motion. Kind of take a breath?

13 MEMBER DECOTA: Yeah, I have to think about
14 this a little bit. I think that sends a mixed message,
15 John, to the author of where we're going. I agree that
16 part of the process is amendment. The author would, I
17 think, be very willing to take into consideration
18 amendments that were made, but I don't think at this
19 point I want to change my motion.

20 CHAIR WEISSER: So the motion that stands
21 would be, to repeat it as best I can from my horrible
22 memory, the motion that was made and seconded was to
23 vote on the Committee supporting the measure. I will
24 only add that there's nothing that would prevent us
25 upon adoption of that motion from including in the

1 letter to the author that we recognize the bill is
2 still at a conceptual level and that we look forward to
3 working with the author on refining it through the
4 legislative process if that would be something that
5 would actually do what I hear you guys wanting to do
6 without sending a mixed message.

7 Are you comfortable with it?

8 MEMBER DECOTA: Yes.

9 CHAIR WEISSER: Are you comfortable with it?

10 MEMBER KRACOV: Yeah, I support the bill
11 which is a conceptual bill. I think that our role is
12 to do some analysis, that is our role.

13 CHAIR WEISSER: That's what we try to do.

14 MEMBER KRACOV: And I think that this
15 analysis hasn't been seen by the public, it's not ready
16 to be given to the sponsor, and I think that we have to
17 realize that with supporting the bill comes an
18 obligation of us to back it up, so I want to be sure
19 that the sense of this Committee is that we're going to
20 get to this, we're going to get some good work product
21 out there, that that is our role and we're going to
22 take that role seriously, and whether that can be part
23 of the motion, I don't know, but I do think that's very
24 important, because otherwise we're only taking half a
25 bite of the apple.

1 CHAIR WEISSER: I concur with what you said.
2 Okay. Is there any further discussion?
3 Hearing none, will those in favor of adopting the
4 motion for the Committee to indicate to the author its
5 support of the measure, please indicate by saying aye.
6 IN UNISON: Aye.
7 CHAIR WEISSER: Are there any opposed?
8 Hearing none, the measure carries unanimously. Thank
9 you. We will take this seriously.
10 Mr. Pearman?
11 MEMBER PEARMAN: Well, I think you had said
12 let's separate it into two parts -
13 CHAIR WEISSER: That's correct.
14 MEMBER PEARMAN: - the approval. So I would
15 like to make a second motion that the subcommittee be
16 instructed to refine the draft report on the concept of
17 moving the policy to CARB and retain implementation
18 with BAR, tie this into the legislation and bring back
19 a report for our consideration, hopefully, and approval
20 and delivery at the next monthly meeting.
21 MEMBER DECOTA: I'll second that.
22 CHAIR WEISSER: Discussion? I recognize
23 myself. This may be author's pride, but I don't think
24 we're all that far away from having a useful document.
25 I mean, I don't want to have us write a 30-pager that

1 doesn't get read. We've got to boil everything down
2 for legislators and their staffs to look at, I don't
3 want a big wordy thing.

4 What the direction that I'm suggesting we
5 take is to try to incorporate those things that we've
6 highlighted during this morning's discussion to somehow
7 put those things into this. If there are additional
8 items or issues that any member of the Committee would
9 like to have addressed other than those that we've
10 highlighted to Rocky so far, it's important for you to
11 let John or I or Rocky know so we can consider putting
12 them in or at least flag them for discussion at our
13 next meeting.

14 With that, is there any further discussion?

15 All in favor of adopting the motion as put
16 forward by Mr. Pearman please signify by saying aye.

17 IN UNISON: Aye.

18 CHAIR WEISSER: Any opposed? Hearing none,
19 the motion carries.

20 Ladies and gentlemen, it is 12:31 and I would
21 suggest to us that we adjourn for lunch and come back
22 at 1:30. Is that okay with everyone? Good. The
23 meeting is adjourned for lunch.

24 **(Noon Recess)**

25 **- o0o -**

26

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5

MR. CARLISLE: I'm sorry, yes, it does

1 require public and open meeting with all those involved
2 before any decision would be made.

3 CHAIR WEISSER: Um-hmm.

4 MR. CARLISLE: So it couldn't just be an
5 agreement between ARB and BAR.

6 CHAIR WEISSER: And who is the sponsor of
7 that measure?

8 MR. CARLISLE: I don't know that either.

9 CHAIR WEISSER: I think someone will be able
10 to tell us shortly. Are there any questions -

11 MR. CARLISLE: Oh, I'm sorry. Dennis
12 probably knows.

13 CHAIR WEISSER: I suspect so. Are there any
14 questions of Rocky on this bill? Is there anyone from
15 the audience that would like to say something? Mr.
16 Walker.

17 MR. WALKER: Mr. Chairman, members of the
18 Committee, Chris Walker on behalf of the California
19 Service Station and Automotive Repair Association.
20 Members of CASSARA are indeed the sponsor of AB578 by
21 Senator Horton. Just wanted to clarify one issue.

22 It doesn't change the "shall" to "may".
23 Well, that verbiage is in there and there's a good
24 reason for that. What it does do is to say before the
25 Department of Consumer Affairs increases the volume of

1 cars going to test-only; i.e., directing the vehicles,
2 or consequently reducing the number of cars going to
3 test-only, they're going to have a full and public
4 hearing to consider such impacts on consumers and the
5 environment. It was brought because of the way that
6 many small businesses were caught without knowing what
7 was happening, making investments in the program to
8 learn later on that cars were going to be redirected
9 elsewhere, so the idea is to daylight those decisions
10 and allow the public to know what's going on.

11 But let me be very clear. Nothing in this
12 bill hampers the Department to do what they want to do
13 in order to meet the federal air quality guidelines;
14 i.e., if they're going to increase the cars or decrease
15 the cars, nothing in this bill changes that authority.
16 The reason that the word in the bill from "shall"
17 changed to "may" is because just the way the paragraph
18 was constructed. After they have a public hearing they
19 may increase, where it used to say after they have a
20 public hearing they shall increase.

21 CHAIR WEISSER: Ah.

22 MR. WALKER: So, but nothing in it changes
23 the actual overview. The public hearing and the fact
24 that the testimony (inaudible), that does not challenge
25 their authority to do what they're going to do.

1 CHAIR WEISSER: Thank you. Can I ask who
2 appeared in favor and who's in opposition to the bill?
3 Rocky, do you have that?

4 MR. CARLISLE: I don't have that with me.

5 CHAIR WEISSER: Perhaps Mr. Walker could
6 illuminate us?

7 MR. WALKER: What you had was a lot of
8 representatives of the various industry groups
9 supporting the bill. I believe the environmental
10 groups, Sierra Club, Planning and Conservation League,
11 came (inaudible) to be able to take a support or an
12 opposition position, but they did want to be included
13 in the conversation.

14 CHAIR WEISSER: And the test-only, was there
15 anyone from test-only? No. Did they appear on the
16 bill?

17 MR. WALKER: Test-only was opposed to the
18 bill. They were concerned that the public hearing
19 wasn't addressing the environmental benefits. The Smog
20 Check (inaudible). The bill was amended to include the
21 Air Board in the public hearing process. The
22 Department of Consumer Affairs is to work now in
23 collaboration with the California Air Resources Board
24 in conducting these hearings, and that amendment was
25 made to assuage some of the concerns made by the

1 opposition, but I don't know (inaudible) the support
2 side of it.

3 CHAIR WEISSER: And did the Bureau or the Air
4 Resources Board take a position on the measure yet?

5 MR. WALKER: No.

6 CHAIR WEISSER: Okay. Is there anything that
7 the Bureau or ARB would like to toss in at this point
8 in time? No. Okay. Thank you.

9 Rocky?

10 MR. CARLISLE: The last bill was AB898 by
11 Mays. Originally that was a bill that would create a
12 test-only technician that would have a lesser
13 qualification of 40 hours of training prior to working
14 at either a test-only or test-and-repair station. That
15 has been amended now to change the qualification for
16 the Smog Check technicians to basically 60 hours, so it
17 wouldn't matter where you worked or whether you were
18 just testing or testing and repairing. It changed the
19 training qualification from the current 180 hours plus
20 2 years of experience to 60 hours with no (inaudible)
21 experience.

22 CHAIR WEISSER: And that's become a two-year
23 bill?

24 MR. CARLISLE: That's become a two-year bill,
25 yes.

1 CHAIR WEISSER: Any questions or comments on
2 this or anything else? Mr. DeCota.

3 MEMBER DECOTA: Just point of information to
4 the Committee on AB578. We also had the Small Business
5 Council on the bill as well as Consumers First and
6 Consumers Action.

7 CHAIR WEISSER: Okay. I think it's an issue
8 that we are going to want to keep our eyes on, Rocky.
9 At some point, perhaps at our next meeting, I would
10 think it may be timely for us to decide whether or not
11 the Committee wants to take a position on that measure,
12 too, so we need to be re-informed as to the issues.
13 I'm particularly interested in getting BAR's and the
14 Air Resources Board's perspectives on the issue before
15 we take a position.

16 MR. CARLISLE: Okay.

17 CHAIR WEISSER: And that would conclude the
18 legislative report?

19 MR. CARLISLE: Yes, sir.

20 CHAIR WEISSER: Very good.

21 - o0o -

22 Our next item on the agenda is the IMRC
23 meeting frequency, and this issue was put on the agenda
24 because someone had a dream that with the issuance of
25 our report in January our workload of things that were

1 coming before this Committee were going to decrease to
2 such an extent that we could potentially operate on a
3 bi-monthly basis. It's become pretty evident to me,
4 members, that we're going to have to approach this
5 gently, tenderly, and perhaps pick and choose depending
6 upon the workload that's before us whether or not we
7 can afford to miss one of the monthly meetings.

8 In particular, Rocky or Janet, do you know
9 what the schedule is for our July meeting, when it is?

10 MS. BAKER: The 26th.

11 CHAIR WEISSER: It's the 26th of July. I
12 know for sure that I will not be present and I've just
13 been informed that Dr. Williams will not be present,
14 and I don't know what the rest of the group's schedule
15 is, but if I remember correctly, the last couple of
16 years we have taken, I think, a one-month hiatus in the
17 summer, so it's possible we'll decide later that that
18 meeting might be the meeting that we'll cancel, so I
19 just put that out there for folks to note.

20 Does anybody have any comment on that issue?

21 MEMBER HISSERICH: If I may, Mr. Chairman. I
22 think one of the issues was whether or not we could
23 have a little more meetings in the south of the state
24 on occasion for those of us who make this trip. As
25 much as we love Sacramento and overnight trips, we

1 wouldn't mind doing it down there occasionally.

2 CHAIR WEISSER: I don't know how to react to
3 that. I know that the costs associated with the
4 members, a number of which live up here, a number of
5 which live down south, is something we need to take
6 into consideration along with the staff, and also the
7 costs for the agencies, both BAR and CARB, so I don't
8 know how to react to that.

9 MEMBER HISSERICH: Well, it's certainly not a
10 bottom line issue, it was just raised I think in part
11 because of that requirement and because I at least once
12 would like to get to a meeting before Mr. Hotchkiss
13 does.

14 CHAIR WEISSER: That's very good. Well, I
15 know also that when I first joined the Committee we
16 wanted to put the show on the road but our travel
17 constraints and budgets were so tight, so I don't know
18 what our situation is in terms of travel, and what I
19 guess I'd like you to do, Rocky, is to look into that,
20 confer with both the BAR and CARB regarding their
21 attitudes towards it. And, you know, I think it would
22 be a good idea at least once for us to get in L.A.
23 because there are a lot of people, maybe there are some
24 people, I should say, in the southland that would like
25 to chat with us that find it somewhat difficult to do

1 | so while we only meet in northern California.

2 | MEMBER HISSERICH: As we know, most of the
3 | members of the industry here tend to be from Stockton,
4 | Sacramento and the immediate area.

5 | CHAIR WEISSER: Right.

6 | MEMBER HISSERICH: We'd occasionally like to
7 | hear from some of their counterparts in the south.

8 | CHAIR WEISSER: I think it's well taken, and
9 | perhaps the August meeting, August in Sacramento being
10 | what it is, might be a target for a southern California
11 | session.

12 | MR. CARLISLE: San Diego?

13 | CHAIR WEISSER: Thank you. Good input, and
14 | we'll ask our executive officer to look into in
15 | particular an August southern California venue.

16 | - o0o -

17 | Our next item on the agenda is a referee
18 | update. This is an update that we asked the Bureau to
19 | provide for us regarding the contracting for referee
20 | services which currently is being performed by the
21 | community college system. So is there someone from the
22 | Bureau who could illuminate the Committee as to what's
23 | going on? Welcome to the podium, Chief Ross.

24 | MR. ROSS: Thank you, Mr. Chairman. Relative
25 | to the referee, the referee continues to perform their

1 current functions. I do know they have a contract that
2 runs through September of this year with two six-month
3 extensions. The performance reports that the referee
4 generates show that the general trends of types of
5 services have remained primarily the same, most having
6 to do with the dispute resolution between apparently
7 testing circumstances.

8 What we do see is there is a gaining number
9 of noise citation resolutions as a part of their
10 function and duties, and which really doesn't relate to
11 smog at all, but that's (inaudible) by the Vehicle
12 Code.

13 CHAIR WEISSER: Um-hmm.

14 MR. ROSS: And so generally the patterns
15 remain the same. I am going to provide a letter to Mr.
16 Carlisle identifying some of the statistical
17 information that they do report to us, et cetera. They
18 operate still in 36 locations, most of which are on the
19 college campuses. We request none, we have no part of
20 our contract whatsoever that associates with how they
21 interact with the community college environment
22 relative to the resources so they do not report
23 anything of that nature, so I cannot report anything in
24 that regard.

25 As to the earlier interest, there has been no

1 decision made as to how the post-current contract
2 period will proceed and that's still under review.

3 CHAIR WEISSER: Could you give us an
4 indication of the sorts of factors in this review that
5 you're looking at, the areas that you're considering in
6 terms of evaluating whether you're going to want to
7 renew the contract to go out for bids for the services
8 provided by the community colleges?

9 MR. ROSS: Several factors that I think are
10 very relevant is that the cost to the state of the
11 services being provided, the availability of the
12 locations, access for the consumer, because this
13 program, it must be remembered, is to provide a service
14 to the consumer, the person getting their car and
15 vehicle smogged, that's the objective, so those are, if
16 you will, principle factors.

17 Also, the issue as to who ought to bear the
18 cost of expense incurred by the vehicle owner that
19 ultimately find their way to the referee. Right now
20 the state subsidizes that. So those are the three
21 principle factors.

22 CHAIR WEISSER: Are you also looking into any
23 of the ancillary benefits that I remember hearing from
24 the presentation by the community colleges associated
25 with the training of technicians in the area, those

1 sorts of things?

2 MR. ROSS: We're having continuing
3 discussions with the current contractor regarding
4 improvements to the program. I would presume the
5 current contractor would offer up those types of
6 benefits as a manner of identifying values that they
7 see.

8 CHAIR WEISSER: So you'll be factoring that
9 into your analysis?

10 MR. ROSS: If that information is provided
11 we'll take a look at it.

12 CHAIR WEISSER: Are there questions that any
13 members of the Committee would like to ask? Are there
14 comments from the audience? Okay, we have Bud in the
15 back. Thank you very much, Chief Ross.

16 MR. ROSS: Thank you.

17 MR. RICE: Bud Rice, Quality Tune-Up Shops.
18 Two quick questions. One is, are all the testing
19 workers in the referee stations licensed? Are they all
20 licensed, that's one question. The second question is,
21 are there on-site quarterly audits that are done at the
22 referee stations? So those are my two questions.

23 CHAIR WEISSER: Can I ask before we ask
24 somebody to respond, what's behind the questions?

25 MR. RICE: Well, first one is I'd just like

1 to know to make sure that there aren't unlicensed
2 people doing smog tests for the State of California.
3 And the second one is just in terms of quality control.
4 A BAR member can come in and check us as far as the
5 test-and-repair shop goes to make sure we're doing it
6 right. Is there any kind of an audit like that to
7 makes sure that the referee guys are doing it right?

8 CHAIR WEISSER: Thank you. Chief Ross, if
9 you or someone else from BAR might be able to respond?

10 MR. ROSS: The first question is, everyone
11 that does a smog test in the State of California is
12 supposed to be licensed. Since the contractor has so
13 much more to lose by not having properly licensed
14 people, that is probably one of the most diligently
15 validated conditions that (inaudible), and the answer
16 to the question is yes, they are licensed.

17 Two, the referee sites are on an audit cycle,
18 and like any other event, if we were to receive a
19 complaint that was focused or showed some kind of
20 pattern or trend, which we have not, we would then move
21 into a little bit different audit criteria activity.

22 CHAIR WEISSER: Fine. Before you step down,
23 can you once again remind us of the timing of your
24 review and how you anticipate this decision rolling
25 out?

1 MR. ROSS: To remind would suggest I've
2 previously -

3 CHAIR WEISSER: I think you gave us a
4 timeframe a couple months ago in terms of how you were
5 approaching and analyzing the issue of renewing or
6 going out for an RFP.

7 MR. ROSS: I don't have a fixed time.
8 Actually, we've got another, what, seventeen months on
9 this contract.

10 CHAIR WEISSER: Oh, okay.

11 MR. ROSS: So, I mean with two options. Or
12 we could possibly have a final decision or
13 recommendation come out from review by all the entities
14 that do review these things. It is a budget issue,
15 there are other entities involved in terms of review
16 and consideration of practices and so forth.

17 CHAIR WEISSER: Which other agencies or
18 entities?

19 MR. ROSS: The same, all the others that are
20 considered control agencies for the State of
21 California.

22 CHAIR WEISSER: Okay. And if I remember
23 correctly, you had indicated you would be sharing the
24 analysis and recommendations that are going to be made
25 on this with this Committee prior to the decision being

1 made?

2 MR. ROSS: We'll advance those through the
3 appropriate executive branch chain of command, and as
4 you're well aware in your discussions relative to
5 legislation, there are chain of command reviews that
6 occur.

7 CHAIR WEISSER: Yeah. Is this Committee
8 going to be part of that process?

9 MR. ROSS: I don't know the answer to that
10 question.

11 CHAIR WEISSER: Could you find out what the
12 intentions are in terms of sharing this with the
13 Committee, perhaps using the Committee as an
14 opportunity to get public input and the like on it?
15 I'm just tossing that out as a potential opportunity
16 for that.

17 MR. ROSS: Thank you.

18 CHAIR WEISSER: Mr. DeCota.

19 MEMBER DECOTA: Chief Ross, does the Bureau
20 have any type of performance evaluation on how the
21 referee is done?

22 MR. ROSS: I'd have to review the historic
23 records of that, I can't tell you off the top of my
24 head, I'm not knowledgeable of that.

25 MEMBER DECOTA: Is that something that you

1 could bring to us at our next meeting possibly?

2 MR. ROSS: I could ask – I'll do an
3 assessment and provide that in writing to you. Do I
4 have somebody back there (inaudible)?

5 CHAIR WEISSER: I don't know, they're all
6 keeping a straight face.

7 MR. ROSS: Okay. I'll see if there is that
8 kind of evaluation and then provide it in writing to
9 you.

10 MEMBER DECOTA: And then would it be possible
11 to see if there was recommendations from the Bureau on
12 how to improve that if there needs to be improvements
13 at all in that referee framework, if you could provide
14 that to us also.

15 MR. ROSS: When you say improvements, Mr.
16 DeCota, what specifically do you mean?

17 MEMBER DECOTA: I'm specifically stating if
18 you have a recommendation that would make the referee
19 services more appropriate to consumers as far as ease
20 of operation, costs and other issues, if you would
21 include those recommendations so the Committee can
22 fully understand.

23 CHAIR WEISSER: Well, can I interject for a
24 second, Chief Ross? What I've heard is a desire to
25 work on their analysis until they think it's complete.

1 MEMBER DECOTA: Well, maybe all I'm asking
2 for is can we see how –

3 MR. ROSS: I don't think Mr. DeCota's asking
4 for our review, he's asking about recommendations that
5 may have been made in the past.

6 MEMBER DECOTA: That's exactly right. That's
7 exactly. So we have a – thank you – so that we have a
8 full understanding of the issue and understand how to
9 improve.

10 CHAIR WEISSER: I stand corrected. Thank
11 you, Chief Ross. Any further questions? Thank you
12 very much.

13 – o0o –

14 Our next subject is the low pressure fuel
15 evaporative test update. Rocky, how should we proceed?

16 MR. CARLISLE: I know Mr. Mow has a
17 presentation that he's done on the part of
18 manufacturers and it might be best if we start with
19 that.

20 CHAIR WEISSER: Is this one of those that I
21 have to move or risk blindness?

22 MR. CARLISLE: Yes.

23 MEMBER LAMARE: There's nothing in our
24 packet?

25 MR. CARLISLE: There is copy of the

1 presentation.

2 COMMITTEE MEMBER: Number four.

3 MEMBER LAMARE: Oh, number four.

4 MR. MOW: While the projector is warming up

5 I'll mention that there is also a document. Do they

6 have the document that has to do with it?

7 MR. CARLISLE: Yes.

8 MR. MOW: We did an analysis of existing data

9 that was available from alpha testing and roadside

10 testing, and actually some functional testing

11 (inaudible) to sort of lay to rest the issue of whether

12 or not this would be a good cost, and we also have

13 that. I'm not going to really go into that

14 exhaustively, it would take a lot of time to do and it

15 doesn't relate to the presentation itself so

16 (inaudible).

17 Okay. Mr. Chairman and Committee, I'm Vince

18 Mow, I'm (inaudible) consultant. Can you hear me okay?

19 CHAIR WEISSER: I can't. Can the audience

20 hear? No.

21 MR. MOW: I should probably sit closer to the

22 mic.

23 CHAIR WEISSER: There you go.

24 MR. MOW: And it's a pleasure to be here

25 today. As it happens, it's almost exactly a year since

1 I presented a similar presentation to this Committee in
2 April of 2004, tomorrow would be one year, and so I'm
3 pleased to be able to provide an update. Part of the
4 update is not that the program has been implemented,
5 however, so there is certainly more to be done.

6 [new slide]

7 What I'm going to try to cover today is some
8 background with some new information on some additional
9 testing that's been done since I was here last, some
10 information on the Smog Check benefits that will
11 accrue, the state of readiness of the technology and
12 some of the things that will prevent us from moving
13 forward possibly, and then a summary. I have some
14 notes with me that I want to refer to.

15 [new slide]

16 Background. Regulatory issues. Actually,
17 I'm going to cover these individually, but I will
18 mention that being sort of an expatriate and native
19 Californian, I've pointed to this program with pride on
20 many occasions because California has done an exemplary
21 job in developing the Smog Check Program. It is,
22 however, not a state that has led the way in
23 evaporative testing. Three other states are currently
24 doing that with great success, they've continued for
25 several years.

1 What California has done, however, is through
2 cooperation between BAR and the manufacturers they've
3 elevated the state of the art of evaporative emission
4 testing to a degree of perfection that was previously
5 thought unattainable. There's some very complex
6 interactions that go on in the fuel tank that make it
7 difficult to pinpoint with great accuracy the rate of
8 leakage. It has to do with the vapor effects and
9 headspace differences and things like that.

10 I remember a few years ago a very well
11 respected owner of one of the companies that produces
12 emission inspection equipment and actually has probably
13 conducted more evaporative tests than anybody I know,
14 saying that it was virtually impossible to improve the
15 accuracy of the test, but however, the benefits were so
16 tremendous from performing the test, even in its lesser
17 refined state, that there was no question as to its
18 value, and one of California's neighboring states has
19 been reaping those values for several years now, even
20 though the test is not considered, certainly not by BAR
21 terms, to be sufficiently accurate for Smog Check.

22 While it may be unfortunate that Smog Check
23 has had to forego some of these significant air quality
24 benefits over the intervening years, it's somewhat
25 reassuring to know that we now have the best

1 groundbreaking evap technology to be used.

2 [new slide]

3 So, economic issues. We'll go over health
4 and safety issues, technical development, industry
5 concerns and environmental concerns.

6 The first issue that I think is of major
7 import here today is that there was a commitment that
8 went into an amended SIP that says that this test will
9 begin on June of 2002, and that is in the present SIP
10 and I guess that's available on ARB's website if
11 anybody wants to review it.

12 [new slide]

13 As far as Smog Check performance, existing
14 shortfalls are projected to be 30 percent by 2010, and
15 I know that you ladies and gentlemen are very familiar
16 with these facts, and that's just to meet the one-hour
17 standard. It's hard to say how much more improvement
18 will be required to meet the eight-hour standard, but I
19 think it's clear to all of us that a lot more has to be
20 done and certainly no major measures that can improve
21 emission reductions can we afford to just forego.

22 [new slide]

23 In 2001 EPA came out with the long-awaited
24 Air Toxics Rule. The Air Toxics Rule has been sort of
25 slow in implementation, although various states are

1 making different efforts at getting there. Maybe of
2 more importance is that of the 21 listed contaminants,
3 benzine is known to cause more cancer than any other
4 component of gasoline, and where it relates to the
5 evaporative pressure test, when you see studies that
6 refer to concentrations of benzine in vehicle passenger
7 compartments that are many, many times the acceptable
8 standard, there are only two sources for that; one are
9 exhaust leaks and the other are evaporative emissions,
10 and it's hard to say which is the greater incidence,
11 but it is safe to say this:

12 When a car is sitting in your attached garage
13 and it has an evaporative leak, for what could be as
14 much as 24 hours a day you have benzine leaking into
15 your home, and an ARB study proved that some years ago.
16 And this by itself with or without an EPA Air Toxics
17 Rule should be considered of some great consequence.
18 We don't know the rate at which kids are getting sick,
19 but we do know that it does occur.

20 [new slide]

21 Now, the other regulatory feature that needs
22 to be attended to is that there's a package of
23 regulations at the Bureau of Automotive Repair that at
24 this point, assuming that it's been validated, must
25 someday be signed and submitted in order for the

1 program to move forward.

2 [new slide]

3 Under economics here –

4 CHAIR WEISSER: I need to interrupt you, if

5 you don't mind. Could you go back to that last one? I

6 don't quite understand what you meant about a

7 regulation package must be submitted. To whom?

8 [last slide]

9 MR. MOW: Well, BAR was charged with putting

10 together the proposal for new regulations for the

11 program, and back in Pat Dorais's watch that package

12 was assembled, and my understanding and I think Pat

13 told me he was ready to sign it. That might have been

14 the day before his job title changed, actually, oddly

15 enough.

16 The package has been reformed. Some of the

17 earlier assumptions, for example, stated a lower

18 benefit than what the two agencies are believing is the

19 true benefit now. And you know, in all fairness to BAR

20 administration, there were some assumptions in that

21 package for which there may not have been sufficient

22 evidence.

23 CHAIR WEISSER: And when you say they were

24 charged with submitting it, this is charged through the

25 agreement to get out of the lawsuit?

1 MR. MOW: My assumption is that ARB made the
2 request to BAR to implement the program, and largely
3 due to the fact that there was a settlement and that
4 eventually the measure went into the SIP.

5 CHAIR WEISSER: Okay. I'm sure we'll find
6 out when BAR chats with us. Thank you.

7 MR. MOW: Sure.

8 [new slide]

9 Comparative costs. In these days of fiscal
10 restraints, I think costs of everything have to be
11 looked at, but with the case of an emission measure
12 like this, it's cost relative to the benefit.

13 The benefit for IM240, based on an Arizona
14 study some years ago, was \$13,787 per ton of
15 hydrocarbons removed for tailpipe testing using IM240.

16 The Carl Moyer limit, which is money that, as
17 was discussed today, is being actually spent for
18 environmental benefits, is \$18,000 a ton.

19 Now, I've prepared my own analysis based on
20 some fairly conservative assumptions, although there's
21 also some additional benefits I haven't included here,
22 and I'm coming up with about \$9,000 a ton or more for
23 the evap test. I'll be happy to go over how that was
24 calculated with anyone that's interested later, I have
25 the work with me.

1 CHAIR WEISSER: Is that included in our
2 package, Rocky?

3 MR. CARLISLE: Yes.

4 CHAIR WEISSER: Okay, thank you.

5 MR. MOW: And I believe BAR's assumptions
6 might have allowed them to come up with a little higher
7 number closer to \$14,000 a ton, but we're, you know, in
8 that general range.

9 [new slide]

10 Fuel savings per vehicle is kind of an
11 interesting way to look at the benefits to motorists of
12 this test, but if you take the lower of the estimate
13 that I'm hearing from the agencies right now, which is
14 20 tons per day, you come up with about 7300 tons per
15 year. We know that the fail rate will be about 10
16 percent from doing both roadside and alpha studies,
17 based on a fleet that will be subject to evaporative
18 testing of about a million vehicles. So that's 100,000
19 vehicles failing and being repaired.

20 If you divide the benefit times the vehicles
21 failing, you come up with about 24 gallons per year per
22 vehicle, and at prevailing rates I guess we're talking
23 60 or 70 bucks. For a motorist paying \$4 or \$5 extra
24 to have a smog check done that includes this measure
25 and then paying \$150 or \$250 for a repair, it's really

1 not a bad investment just from an investment
2 standpoint, and that's aside from the health and safety
3 issues, which are very significant for motorists and
4 their families.

5 [new slide]

6 One of the features of evaporative emissions
7 that should always be borne in mind is that it's like
8 having your vehicle running idling 24 hours a day. The
9 emissions are relatively constant. They do change in
10 extent with temperature and other factors as far as
11 whether the vehicle is running or sitting still, but a
12 vehicle sitting in a garage could be pouring out lethal
13 contaminants.

14 One of the benefits to health and safety of
15 performing this test is that there could be a very,
16 vary large proportion of vapor leaks that occur in the
17 fuel tank system itself, not necessarily just in the
18 lines and hoses, and there have been some studies on
19 this. CRC did a study that I think Rocky has
20 available. I think he has it with him, as a matter of
21 fact.

22 What we're saying here is that when these
23 leaks occur above the temporary fuel level; in other
24 words, if you have a half of tank of fuel and these are
25 occurring above that liquid level, when the car is

1 being operated, in use, the entire surface of the fuel
2 tank is being coated with fuel at one point or another
3 and the potential for liquid leaks exists. The reason
4 this is important is because liquid leaks are the most
5 concentrated source of ozone precursors. When you get
6 a drop of gas on the ground that's a lot of vapor, and
7 the fact is that some of the studies that were done to
8 justify the present measure in Smog Check of inspecting
9 for liquid leaks indicated a consequence of a liquid
10 leaking vehicle that could be over a hundred times what
11 the same vehicle would be if it was just emitting from
12 the tailpipe or leaking vapor.

13 So, it could be that a very high percentage,
14 and I have provided an analysis to ARB and BAR of what
15 that number might be, could be emitting liquid and
16 could increase our estimate of the value of this test
17 by double, for example. And to my knowledge, unless
18 ARB has some information that I'm not aware of, this
19 has not been figured into the value. And obviously, if
20 you have liquid leaks you can also have ignition and
21 fires and things like that. The vehicle's in an
22 accident, the tank's leaking, the rest is obvious.

23 [new slide]

24 Reduction of air toxics. We spoke about
25 benzene. An abundance of studies exist on the bad

1 health effects of benzine. Some of the mechanisms for
2 benzine getting into the passenger compartment, when
3 you're driving the car there's some relative vacuum
4 that can suck the vapors in. When the car's standing
5 still it can just rise up through any cracks underneath
6 the car.

7 And then of course it does mitigate the BFC
8 infiltration from an attached garage into a home. As I
9 recall, the study that I saw some time ago indicated
10 that over a period of 48 hours or more, the level of
11 benzine – and I think CO was used as a surrogate,
12 carbon monoxide – inside the home would equal that
13 inside the garage, so it's a good reason to keep
14 temporary gasoline (inaudible) but evaporative
15 emissions could really cause a problem.

16 [new slide]

17 Technical development. A lot of confirmatory
18 studies have been done, more than I could go into in
19 this presentation. There's a situation right now that
20 concerns me a great deal, which is that at least five
21 years after I was involved in trying to get the program
22 out there, I believe BAR is looking to CARB to provide
23 some justification for what's in the regulation package
24 we discussed, and one of CARB's proposals is to perform
25 more shed testing that would incur another six months

1 delay before the regulatory process began. I think
2 we've provided some evidence that that's not necessary,
3 but it needs to be reviewed and accepted.

4 About 5,000 vehicles have been tested with
5 this measure if you include what was done several years
6 ago at BAR with roadside pullovers with 3,000 vehicles.

7 About \$2-1/2 million to date in industry
8 development costs for the technology. This does not
9 include any budgets from either BAR or ARB, which I can
10 only imagine would be (inaudible). So I would contend
11 that the money to get this program in place has already
12 been spent; now it's just a matter of reaping the
13 benefits.

14 [new slide]

15 One of the features of the new equipment is
16 that it is much more accurate and able to compensate
17 for all variables than any previous version, and that
18 means regardless of fuel temperature, regardless of how
19 full the tank is, regardless of how big the leak is, we
20 can tell you at a given threshold whether the vehicle
21 will pass or fail, and the same vehicle will fail the
22 next day under different conditions. So there's a
23 great deal more consistency available for this
24 technology than there ever was.

25 There's also internal self-test and an

1 external calibration routine to ensure that the
2 accuracy of the equipment doesn't vary with time, and
3 that if there is a defect the equipment is basically
4 locked out so you can't continue doing tests.

5 [new slide]

6 Based upon how the threshold is developed,
7 we've provided an analysis that shows that the error
8 commission rate is practically zero percent. Part of
9 this is how you set the threshold. If you really want
10 to say that no false failures are acceptable, then you
11 can set the threshold in the equipment so that any
12 errors that are built into the test which are true of
13 every test that we do today, doesn't matter if it's a
14 gascap test or a tailpipe test, you can set it up so
15 all those errors occur on the errors of omission side,
16 which means that you won't have as many – you won't
17 have false failures but you might have false passes
18 (inaudible), but not very many at that, the accuracy is
19 really pretty good.

20 We're measuring hole sizes within a few
21 thousandths of an inch. BAR did a study that shows
22 that with the improved pinch pliers and techniques, the
23 reliability (inaudible).

24 CHAIR WEISSER: Excuse me, what is pinching
25 reliability, the ability to close the hose?

1 MR. MOW: Please excuse me for forgetting
2 that – you know, I live and breathe this stuff every
3 day.

4 CHAIR WEISSER: I hope not.

5 MR. MOW: Thanks. The tubing that leads from
6 the fuel tank to the charcoal canister, which is
7 considered the vent line from the fuel tank, has to be
8 pinched in order for the system to be pressurized for
9 this test, and if that pinch point is not reliable in
10 that it allows leakage, that is the major source of a
11 false fail where a vehicle that otherwise has no leaks
12 could be seen as leaking, so the reliability of that
13 operation is crucial.

14 CHAIR WEISSER: Thank you.

15 MR. MOW: Sure. And in the analysis that you
16 have available to you that's on the table in the back
17 and that's in your packages we've tried to illustrate
18 that the probability of false fail is less than 3/10ths
19 of a percent based on the current data and technology.

20 [new slide]

21 The (inaudible) adapters are another possible
22 source of air. They're really the inverse of the
23 adapters that we use in the test for fuelcaps, same
24 construction, same seals, they're applied to the filler
25 neck instead of the gascap, and we have not seen any

1 likelihood for leakage at that point except in the
2 event that you have a really deteriorated filler neck,
3 which would be visibly evident, and we can only hope
4 that a technician would spot that. But then the
5 vehicle should fail anyway, because if a filler neck
6 surface is bad, that means it's not sealing on the
7 fuelcap.

8 [new slide]

9 I'll be able to show you that the roadside
10 data and the alpha test data matches pretty nicely.
11 This is a graph that we developed that shows leak size
12 on roughly the same sample size but totally different
13 fleets of vehicles. None of these vehicles, as far as
14 we know, were the same vehicle tested in both cases.
15 And two different sets of people doing the tests and
16 the correlation still came out pretty darn good.

17 CHAIR WEISSER: And if I were an alpha test
18 what would I be?

19 MR. MOW: You would be a test that occurred
20 when the manufacturers agreed to distribute equipment
21 to a bunch of shops that volunteered to do the test,
22 and they recruited vehicles from - I'm not sure, BAR
23 could tell us, but I think from their existing customer
24 base and performed a typical evaporative pressure test
25 on those vehicles. And of course roadside pullovers

1 everyone here is pretty familiar with.

2 [new slide]

3 That's an artist's representation of what the
4 production ready equipment will look like, and it's
5 just going to look like a typical piece of shop
6 equipment. You see pinching pliers on the top.
7 There's some adapters on the side, there's a hose to
8 reach over to the vehicle. What you don't see there is
9 either shop air going to the unit or a source of dry
10 nitrogen, either of which is approved.

11 [new slide]

12 Some of the industry concerns. You know, we
13 have to face at this point that the test-and-repair
14 industry is in trouble. I mean, I'll be frank about
15 it. And we're asking them to buy equipment in order to
16 make this test happen. Now, I have an analysis I'll go
17 into later that shows that it's probably an okay
18 investment, but I don't really have great numbers to
19 work with and I'd like to have better numbers.

20 What I do know for sure is that redirection
21 of vehicles to test-only, extended warranties that
22 prevent people from bringing the vehicles in to private
23 repair facilities, the loss of the change of ownership
24 test and exempting the first six model years is causing
25 a financial crisis in some test-and-repair shops, and

1 for any measure such as this to be successful, the
2 test-and-repair community has to be able to buy in and
3 I think that's in question right now. And it's
4 unfortunate that this test has been delayed to the
5 extent that it may be a test of the extent to which a
6 repair community that's having trouble prevents a
7 valuable measure from entering Smog Check, and I hope
8 that's not the case. It would be a very poor reason
9 for a very valuable test not to be done, but it's a
10 reality that I think we all have to deal with, and part
11 of the solution may lie in the work of this Committee
12 and I certainly hope it does.

13 Types of repairs and expected value of
14 repairs are some of the industry concerns that we can
15 talk about a little bit.

16 Verification of repairs with built-in
17 diagnostics. One of the issues of cost is whether
18 additional diagnostic equipment will be necessary, and
19 I don't want to go into a lengthy discussion of that,
20 although I'll be happy to respond to any questions, but
21 there are some very good diagnostic features built into
22 the present technology so a vehicle can be repaired
23 without, for example, purchasing smoke diagnostic
24 equipment.

25 I suspect that larger volume shops already

1 either own some of the more sophisticated diagnostics
2 because they're useful for a lot of other reasons in a
3 shop, and I've talked to shop owners in California who
4 do own that equipment. And it's also very likely that
5 the manufacturers will offer a discounted version of
6 smoke diagnostics that can be integrated into the
7 inspection equipment. But the bottom line is it's
8 already there. If a shop owner doesn't feel they want
9 to make the initial investment in extra diagnostics,
10 they can get by with what's built into the equipment.

11 Technical resources and training are another
12 industry concern. The Bureau of Automotive Repair has
13 already contracted with a supplier of graphic look-up
14 tables who has delivered that product, so the look-up
15 tables that show a technician where to pinch the hose
16 and how to perform the test are already in place and we
17 just need (inaudible).

18 [new slide]

19 Now this is a quick and dirty investment
20 analysis. I took the inspection equipment cost and
21 then I added to it an increment for the diagnostic
22 repair equipment, and so it came out with an even
23 \$3,000, although I think that if all you wanted was the
24 inspection equipment it would be on the lower end of
25 that.

1 [new slide]

2 Here's a problem. The amount of inspections
3 per year that BAR is estimating is about 620 per shops
4 across Smog Check, but we know that for this test where
5 you're dealing with pre-'95 vehicles, how many of those
6 vehicles actually make it to test-and-repair, and it's
7 probably not an average of 620 a year, but that was the
8 basis for this analysis anyway.

9 [new slide]

10 Value added to the inspection fee will
11 probably be \$4 or \$5. The fail rate we know will be
12 about 10 percent. The average repair cost on the low
13 end will be about \$150. Some of the other estimates
14 from BAR and CARB go as high as \$350. And a profit
15 margin for any shop today I think should be at least 40
16 percent, hopefully more than that for the sake of the
17 shops. And then equipment maintenance and operating
18 costs we figure maximum of about \$100 a year. And what
19 it came out with is a return on investment of eight
20 months for the purchase of that equipment at \$3,000.

21 [new slide]

22 Here's just an example or a little
23 illustration. We talk about the pinch point database,
24 it's simple to use.

25 CHAIR WEISSER: I'm going to interrupt you

1 once more. Could you go back one more frame?

2 MR. MOW: Sure.

3 [last slide]

4 CHAIR WEISSER: This assumption associated
5 with 620 inspections a year, could you talk a little
6 more about that and the pre-'96 and all that stuff? I
7 don't understand.

8 MR. MOW: Well, about half of the fleet right
9 now in rough terms if you say there's 20 million
10 vehicles being inspected per year in Smog Check, about
11 half of those or about 10 million would be subject to
12 the evaporative pressure test. And I'm not sure how
13 the 620 figure was developed, because I know that
14 number varied within BAR, but I do know that it's
15 intended to be an average across all the Smog Check
16 shops, which would include test-only, Gold Shield,
17 test-and-repair.

18 Of those 10 million pre-'96 vehicles, since
19 the majority of redirected vehicles are in the gross
20 polluting category, well, that's were all the gross
21 polluters are. So that's why it's not clear to me that
22 this analysis would work for (inaudible).

23 CHAIR WEISSER: Yeah, that's what occurred to
24 me. Okay, thank you.

25 MR. MOW: So I guess what I'm saying, Mr.

1 Chairman, is I would love to know what the real number
2 is, but I don't know how to get to that.

3 [new slide]

4 Okay. And the DOEs will actually when they
5 install the equipment, they'll again go over with the
6 technicians how to use it. The controls are fairly
7 simple. There's an awful lot of automatic menu-driven
8 stuff on the tester.

9 CHAIR WEISSER: I'm awfully sorry,
10 buttonology?

11 MR. MOW: Buttonology.

12 CHAIR WEISSER: What the heck is that?

13 MR. MOW: I have a dear friend who is the
14 president of Aspire, Inc, and they do a lot of training
15 materials and stuff and that's a phrase he coined for
16 when you go in and just show somebody how to push the
17 buttons.

18 CHAIR WEISSER: Oh, okay. Like a VCR. But
19 that's not buttonology since no one knows how to
20 operate a VCR. Thank you.

21 [new slide]

22 MR. MOW: Here's an example of what's in the
23 training materials. Vehicle specific pinch point
24 database, which kind of shows you right there is where
25 you put the pinch pliers. Covers vehicle emission

1 labels, evaporative system theory, some of the OE
2 specific features of different vehicles, tampering and
3 common failure identification, evaporative system
4 components, warnings and precautions. There's an
5 example of the vehicle emission label.

6 [new slide]

7 (Inaudible) This is a quote that came from
8 the April 2004 draft Smog Check Evaluation. What it's
9 really saying is that we can't afford to think that the
10 older fleet is going to go away any time soon, you
11 know, and if 75 percent of the HC and NOX are going to
12 be from the light duty fleet vehicles 13 years and
13 older in the year 2010, then this is clearly a test
14 that's going to be valuable for awhile.

15 Loss of benefits should be disturbing if we
16 believe the estimates that we're hearing right now of
17 20 tons to 40 tons per day as the estimated benefit. I
18 have to add that those estimates do not include
19 additional losses from liquid leaks and one other area
20 that I'll mention shortly. This means that if we take
21 the lower estimate of 20 tons per day, this means we've
22 given up 33,000 tons of BSE control from the date when
23 the test was supposed to be implemented according to
24 the SIP until today.

25 Another concern is direct air toxics exposure

1 to occupants. Chronic benzene inhalation in passenger
2 compartment causes acute non-lymphocytic leukemia,
3 which is a potentially fatal disease.

4 Direct air toxics exposure in homes. You
5 know, ARB has done some studies of attached garages,
6 and we're not talking about anything that's unknown
7 here. We know that it's bad to have vehicles that are
8 leaking fuel in any form, either liquid or vapor,
9 either leaking into the passenger compartment or into a
10 garage.

11 [new slide]

12 An interesting sideline is that as the result
13 of a CRC study which was partially funded by CARB, we
14 know that using ethanol now as a fuel additive instead
15 of MTBE we've increased the permeation rate, permeation
16 losses through the evaporative system by a factor of
17 200 percent. This test does not address that directly,
18 but it should be clear that if we don't do something to
19 mitigate these increases we're going to end up worse
20 than where we started.

21 CHAIR WEISSER: What's CRC?

22 MR. MOW: The Coordinating Research Council.
23 They have a yearly conference where everybody presents
24 their research and they also sponsor a certain amount
25 of research.

1 CHAIR WEISSER: The Coordinating Research
2 Council of what? That's just their name?
3 MR. MOW: That's their name.
4 CHAIR WEISSER: Thank you.
5 MR. MOW: And engine oil, I think, was - I
6 can't remember, but there was an earlier form of this
7 group that sponsored by the oil companies and then they
8 gradually evolved into CRC.
9 CHAIR WEISSER: Thank you.
10 MR. MOW: Sure. And Rocky has that study, I
11 believe, if you wanted to take a look at it. Believe
12 it or not.
13 [new slide]
14 June 2002 SIP commitment, I mentioned that.
15 You know, environmental equity, another
16 interesting thing to consider, but the fact of the
17 matter is, today if you're driving a '96 or newer car,
18 you are protected from inhaling benzene to some extent
19 by virtue of the fact that the on-board diagnostics are
20 going to flag an evaporative failure. If you're
21 driving a pre-'96 vehicle you do not have that
22 protection.
23 [new slide]
24 And this is also fascinating, and I would
25 appreciate if ARB could comment on whether this has

1 | been included in any of their analysis, but if you look
2 | at study that was done by Eastern Research Group for
3 | the Bureau of Automotive Repair in August of 2000, they
4 | concluded that in analyzing the benefit of the fuelcap
5 | test for Smog Check, you had to discount the benefit by
6 | 30 percent because of collateral defects in the
7 | evaporative system. And in fact, at the threshold
8 | that's being proposed right now to flag an evap system
9 | as having failed, we're using a 40/1000 hole. We're
10 | saying that unless the leakage through the evap system
11 | is equivalent to a 40/1000ths hole it's a pass, okay?
12 | The hole size that will cause a failure for a fuelcap
13 | is 4.5/1000, so we're talking about an order of
14 | magnitude difference between those rates.

15 | So obviously, if you take an evap system
16 | that's leaking at the rate of two to three liters per
17 | minute and you put a brand new fuelcap on it to repair
18 | a fuelcap leak that you failed with a smog check,
19 | you're not doing anything. So the good news is that
20 | benefit comes back. If we start testing and repairing
21 | these vehicles, that roughly five tons per day I
22 | believe that we lost because we weren't doing an
23 | evaporative emission test now comes back, and I think
24 | that needs to be added on to the estimates (inaudible).

25 | [new slide]

1 And as I said, (inaudible) consideration
2 (inaudible) the liquid leak component, and the leak
3 threshold is about 20 times that of (inaudible).

4 [new slide]

5 So here's some of the benefits to Smog Check.
6 Complying with the 2000 SIP. Commitments to prevent
7 litigation. I think you all recall that there was some
8 threatened litigation with the advocacy groups back in
9 2000, and a letter went to the EPA promising to do this
10 test as part of that settlement.

11 Progress towards the one-hour standard. God
12 knows how we're going to meet the eight-hour standard,
13 but it would be nice to start by meeting the one-hour
14 standard.

15 Mitigating the increased evaporative losses
16 from using ethanol. Capturing significantly more
17 liquid leaks up to about 33 tons per day. Tests
18 between older and newer fleets being more equitable.
19 Recapturing 30 percent of the gascap test benefit. And
20 7500 to 15,000 annual tons of BSE reductions that we're
21 missing right now.

22 [new slide]

23 State of readiness. The production hardware
24 version is completed. Basic production software is
25 complete. Multiple units have already been submitted

1 for field testing. Alpha and roadside testing has been
2 consistent with each other. Stakeholder meetings and
3 workshops have been conducted. Manufacturers have
4 committed themselves to full production. Pinch point
5 reference tables have been completed. What's missing
6 is the regulation package being signed and submitted
7 and announcing a start date.

8 [new slide]

9 In summary, the technology that we presently
10 have is sophisticated, robust and ready. It's
11 essential the SIP compliance with this measure is put
12 into effect. Air quality benefits from further delays
13 can't be replaced, they're gone forever. Costs and
14 suffering from health effects tend to be permanent too.
15 And the air quality benefits frankly are extraordinary.
16 Everyone gains from health, safety and economic
17 benefits.

18 And you know, I can only add, and thanks very
19 much for your attention, but my appeal to this
20 Committee today is that the job for which I think IMRC
21 is ideally suited, which is a forum for public and
22 private participation, can ensure that the benefits of
23 this long-delayed measure are finally made available to
24 everyone that breathe's California's air. Thanks for
25 your time.

1 CHAIR WEISSER: Thanks. What I think I'd
2 like to do is perhaps hear from the Department, from
3 the Bureau and from the Air Resources Board, and then
4 open it up to questions from the Committee to everyone
5 and then take public comments and questions. So is
6 there someone from the Bureau or Department that wants
7 to go first? Chief Ross, thank you.

8 MR. ROSS: Mr. Chairman, the BAR has
9 conducted lengthy and extensive preparations, volumes
10 of research and what have you. I do not know specific
11 sources or documents Mr. Mow utilized, so I cannot and
12 I have no reason to doubt he would not use whatever he
13 has been provided in the past.

14 The process that any state agency and BAR go
15 through is when it implements an obligation on the part
16 of a licensee or a regulated entity, it has to prepare
17 a regulation package that says how procedures and the
18 practices, submit that through the Office of
19 Administrative Hearings for public comment or what have
20 you. That package does not get out of BAR until the
21 background in that package is adequately satisfactory
22 to answer, I think, all of the relevant questions.

23 Some of the comments made by Mr. Mow, I
24 believe, are a bit conclusory, so my responsibility is
25 to ensure that we can accurately identify the types of

1 problems that evap testing is to find, to do it with an
2 accuracy rating that allows us to move forward with the
3 new regulation according to the Health and Safety Code,
4 and then to also look at, having once identified that
5 there is a problem, that it can be repaired, and that
6 issue as to the benefit to be gained. So that is an
7 aspect of part of our activity right now. We're
8 working with ARB to resolve some of the questions about
9 accuracy and identification, and so that's our status
10 right now.

11 CHAIR WEISSER: Excuse me. Accuracy and
12 identification of where the leaks or if there are
13 leaks?

14 MR. ROSS: Mostly the latter. And there are
15 some concerns and questions whether the testing,
16 because of the pinching activity, may or may not lead
17 to an actual creation of a leak, and that has been
18 studied and some people think we've studied it enough,
19 some think we didn't study enough.

20 CHAIR WEISSER: What did the studies show?

21 MR. ROSS: It basically showed that you can
22 damage a vehicle if you don't do it right or it depends
23 upon the prior maintenance and the age of the vehicle,
24 but it's relatively, in my estimation, inconclusive and
25 I'd like a little more conclusive data with regard to

1 that.

2 Does that answer your question?

3 CHAIR WEISSER: I think what we'll do is, I
4 think the ARB has some comments they want to give us,
5 and then we'll open it up for questions to the
6 presenter and both you and ARB.

7 MS. MORROW: Sylvia Morrow with the
8 California Air Resources Board, and we want to thank
9 Chief Ross for doing a thorough review of the
10 regulation packet and bringing a lot of the issues to
11 ARB's attention of where he did question some of the
12 data and question some of the issues, because one thing
13 that you do have to remember is that this tester is
14 applicable to '95 and older vehicles, and as the fleet
15 gets older, that amount of vehicles is diminishing.

16 And then from information that we were seeing
17 out of other states, not only was the vehicle fleet
18 getting smaller, but also there is a wide variety of
19 the actual number of vehicles that were testable.
20 Because there is different locations of where the evap
21 canister is and different types of fuel lines and such,
22 some of the states out of that pool of '95 and older
23 were only actually testing 10 percent of the cars.

24 CHAIR WEISSER: Ten percent of the total
25 vehicle fleet or ten percent of the '95 and older?

1 MS. MORROW: Ten percent of the '95 and
2 older, but some were up to 66 percent, so we wanted to
3 – there was a wide variety of percentages, and since
4 cost effectiveness and how we do things is based on
5 that, we wanted to get a handle on that.

6 One of the other issues, even though cars
7 that do fail the low pressure evap, there are
8 significant emissions benefits. The study that ARB did
9 with BAR jointly a few years back, I can't tell you the
10 exact date, but out of the 20 cars that BAR sent over,
11 10 of the ones that were tested were shed tests, and
12 shed testing has significant benefits, but there were
13 issues with the other 10, and so we were wondering, you
14 know, we saw it as some of them actually didn't have
15 any failure when they went in there, when they were
16 tested with the shed, so then the question becomes is
17 that what we call a false failure?

18 As Chief Ross alluded, there are some
19 California law requirements, and included in that you
20 cannot have more than a 5 percent false failure rate,
21 so that was one of the issues that we saw that needed
22 to be firmed up before we put a test onto the industry
23 to do something. So right now, even though Vince has
24 said that we were waiting six months to do this, well,
25 we have a really good reason.

1 Right now we've got a surveillance testing
2 program going on in El Monte. At that time they're
3 using their current testers to do the test, then do the
4 repairs and also do shed testing and take a look at
5 some of these issues that we feel are a little bit
6 questionable before the Bureau of Automotive Repair
7 goes ahead with this regulation.

8 CHAIR WEISSER: Thank you, Sylvia. I think
9 I'll open it up to questions from the Committee and
10 then open it up to public comment.

11 MEMBER HISSERICH: I just had one quick
12 question for Mr. Mow. Is there just one manufacturer
13 of this device? Is Waycon or a name like that
14 (inaudible)?

15 MR. MOW: There are in fact three
16 manufacturers involved. Two of them are collaborating
17 to produce one product. The three are Systek, ESP and
18 Hickock, Incorporated, which is Waycon.

19 MEMBER HISSERICH: And this name, I'm sorry,
20 is this Waycon or something like that?

21 MR. MOW: Yeah, Waycon is really more or less
22 the label on the equipment.

23 MEMBER HISSERICH: I see, made by
24 (inaudible).

25 MR. MOW: But Waycon is a wholly owned

1 division of Hickock, Incorporated, which is one of the
2 three manufacturers.

3 MEMBER HISSERICH: And to this question of
4 whether or not – maybe you addressed this but I’m not
5 sure – the question of whether or not there is
6 potential damage, I guess to the hoses presumably when
7 you pinch them off, how do you respond to that?

8 MR. MOW: Well, actually I have provided
9 presentations on that very subject in the past, and as
10 I mentioned, there are three states who have a
11 tremendous amount of history. California is not
12 evaluating this stuff for the first time. It was
13 reported (inaudible) Delaware program that the amount
14 of breakage of any type that occurred in their test
15 lines from this test was so insignificant that they
16 stopped accounting for it, and that was in a
17 presentation meeting three years ago.

18 There is a potential in cases where the
19 tubing is extremely brittle to either not pinch
20 properly because it’s not collapsing when you squeeze
21 the pinch pliers, or it actually cracks the tubing. My
22 experience is, because I’ve done studies on this very
23 subject, is that when the tubing is that far gone,
24 there are other collateral defects in the system and
25 the tubing is something that has to be replaced whether

1 you pinch it or not.

2 The rate that Delaware quoted was that actual
3 tubing problems was less than 1-1/2 percent of the
4 vehicles tested.

5 CHAIR WEISSER: So you're saying 1 to 2
6 vehicles out of every 100, the technician when they
7 would pinch would somehow that would result in a
8 failure of some sort on the tubing.

9 MR. MOW: They might notice a crack
10 appearing.

11 CHAIR WEISSER: And you indicated that how
12 many vehicles would be subject to the test, 10 million
13 was it?

14 MR. MOW: In California.

15 CHAIR WEISSER: In California. And you have
16 about a 1-1/2 percent failure rate, so that means about
17 150,000 times something, 100,000 to 200,000 times a
18 year or two years, however often the testing was, you'd
19 have a problem, an oops, your tube got crushed or
20 cracked or broken. Recognizing as what you said, that
21 in most cases if the tube was fragile, it should be
22 replaced in any event.

23 MR. MOW: It should be replaced, correct.
24 And a lot of those tubing defects occur at fittings
25 because the tubing just stops sealing when it becomes

1 that brittle.

2 CHAIR WEISSER: Thank you.

3 MEMBER HISSERICH: And just real quick. In
4 the tests that were done in other jurisdictions, was
5 that on vehicles that were '95 or older or was that all
6 ages? And the reason I ask is because the '95 and
7 older the tubing would be more fragile.

8 MR. MOW: You're correct in both cases. In
9 all cases it's '95 and older, and typically, before
10 model year '96 all of that type of tubing was of
11 neoprene or (inaudible) rubber, which is far more
12 susceptible to brittleness after exposure to ozone and
13 other (inaudible).

14 MEMBER HISSERICH: Thanks.

15 CHAIR WEISSER: Thanks. Dennis?

16 MEMBER DECOTA: Mr. Mow, on the tester
17 itself, on the piece of equipment, is that introduction
18 anywhere else in any state in the U.S.?

19 MR. MOW: The BAR improved version is not
20 available in any other state yet. The versions that
21 are being used elsewhere are either (inaudible)
22 equipment, and they use a simple pressure (inaudible).

23 MEMBER DECOTA: A lot of industry feels that
24 it would be beneficial if this tester also had a smoke
25 indicator so it could detect where the leak was

1 occurring. Your thoughts on that, please.

2 MR. MOW: As far as I understand right now,
3 Mr. DeCota, in addition to the diagnostic feature I
4 mentioned, which is kind of a Geiger counter device
5 that tells you how much leakage you have when you go
6 into repair mode, manufacturers are planning to offer
7 the evap approved version of smoke diagnostics that's
8 been approved by the big three auto makers as an
9 optional feature, and as such, it should be available,
10 I think their intention is to make it available at a
11 discounted rate (inaudible) a shop owner would go out
12 and pay for a piece of that equipment separately.

13 CHAIR WEISSER: Can you give us an order of
14 magnitude in terms of what that would cost? That's not
15 the 750 bucks.

16 MR. MOW: Yeah.

17 CHAIR WEISSER: It is the 750 bucks.

18 MR. MOW: That's a guess at what the added
19 option might run, it could be 1,000, but I really don't
20 know, I think it's more in line with that 750.

21 CHAIR WEISSER: Yeah, let's not turn this
22 into the Bay Bridge.

23 MR. MOW: Right. And you really can't hold
24 me to it (inaudible), but I think currently they're
25 paying up to about 2500 for the full-blown, you know,

1 luxury model of smog diagnostic equipment.

2 MEMBER DECOTA: I guess my last question
3 would be, have you ever thought about – what I
4 understand is that this would create emission
5 reductions in VOC emissions and that type of thing, but
6 have you ever looked at just simply doing a graph of
7 how many cars have caught on fire on our state freeways
8 in the last ten years as a marketing aspect of this
9 tool? I think that may be very important, because they
10 do create a lot of emissions when they burn up beside
11 the freeway and, you know, they are burning every day.

12 MR. MOW: (Inaudible) to look at fuel leaks
13 or not are not a good thing.

14 CHAIR WEISSER: Bruce?

15 MEMBER HOTCHKISS: Yeah, I just have a couple
16 quick questions. On the 10 percent failure rate, is
17 that an initial failure rate or an ongoing failure
18 rate?

19 MR. MOW: That's an interesting question, and
20 there was extensive alpha testing, I think we tested
21 under 1,000 vehicles, but what we discovered, and BAR
22 could correct me on this, but I think using the 40/1000
23 threshold; in other words, looking for a 40/1000 hole,
24 the initial failure rate would be about 10 percent on
25 the sample of the fleet that was tested. What has

1 occurred in other states, of course, is that that
2 failure rate does go down with subsequent testing
3 cycles.

4 One of the interesting things that came out
5 of that study that Rocky has that should also be
6 applied here in the estimates of repair effectiveness
7 is that, whereas the average repair effectiveness from
8 Smog Check only runs up to about 66 percent, the repair
9 effectiveness for evaporative leaks in the study that
10 was performed in Arizona went up to 91 percent. And
11 the reasons for that should be obvious.

12 When you've got stuff coming out of your
13 tailpipe that's causing a Smog Check failure, it's kind
14 of an intangible until it's very professionally
15 diagnosed. Whereas if you've got a hole with a leak in
16 it, that's not so intangible. If you've got a leaking
17 piece of tubing, you replace the tubing. If the fuel
18 tank is dripping gasoline, you make it stop leaking, so
19 the repairs tend to be effective and they tend to be
20 very durable.

21 MEMBER HOTCHKISS: Okay. Also, on the hoses
22 being brittle and breaking, I mean, it would seem to me
23 that you could catch a large number of these with a
24 visual inspection or even a failed inspection. I mean,
25 if the hose is hard and brittle, you don't pinch it,

1 | you recommend replacement, it would seem. Other states
2 | that have done the testing, do they?

3 | MR. MOW: Well, the Delaware program is
4 | centralized, and what they actually did was they – some
5 | of the facilities are very large with up to about 20
6 | test bays, and they actually have a couple of spools of
7 | hose there and on the rare occasions when it breaks is
8 | what they do, they take a couple of fittings and just
9 | piece it back together, they don't let the vehicle
10 | leave without that repair.

11 | It becomes an interesting subject to consider
12 | in the implications of test-only in this state, because
13 | frankly my personal preference would be that vehicles
14 | that were profiled as being highly likely to have
15 | evaporative failure were inspected at a test-and-
16 | repair, because that car needs to be fixed immediately
17 | and I would like to think that the likelihood of an
18 | appropriate repair increases if the vehicle is
19 | inspected in a repair environment.

20 | CHAIR WEISSER: You want to direct vehicles
21 | to test-and-repair now.

22 | Jude, you had your –

23 | MEMBER LAMARE: I changed my mind, thank you.

24 | CHAIR WEISSER: Okay. I've got a bunch of
25 | questions. I guess I want to ask first of the agencies

1 if they could -- I'd be real interested in getting the
2 specific, and if you can't do it here that's fine, but
3 I'd like the Committee to know what the specific issues
4 are that you're looking at, your concerns regarding
5 this program. It does concern me that the issue has
6 been up for a long period of time, but some of the
7 questions that you, Chief Ross, brought forward in your
8 comments earlier seem to be valid. I mean, they seem
9 to be things that merit investigation, but I'm
10 wondering if it would be possible for you to delineate
11 explicitly what the issues are in regard that you're
12 looking at associated with this program. Or would you
13 prefer to do that subsequent to this meeting?

14 MR. ROSS: Mr. Chairman, let me comment on
15 making a comment. Contrary to some of the earlier
16 discussions this morning, there is interaction between
17 BAR and ARB, and this is an arena where you are looking
18 at a significant addition to the Smog Check Program,
19 and the impact in terms of cost in terms of calculating
20 it out entirely to the public which will be impacted by
21 this is very relevant, so there is good reason to make
22 sure that anything that goes forward is very
23 substantially validated, questioned, answered and what
24 have you.

25 Sometimes it's easy to sign off on something

1 because it sounds like the right thing to do. I think
2 somebody said energy deregulation in the late nineties
3 was the right thing to do, and then everybody said we
4 don't understand (inaudible). Okay. I don't want to
5 be in that role relative to something on my watch, and
6 I have become from my past life very accustomed to
7 looking at facts and identifying their substance and
8 what in fact they do support, and actually reading
9 background material from other states, and it created
10 questions. We met with ARB on these things and we are
11 working toward the end of these questions.

12 It is not to say we have any kind of
13 preconcluded opinion about evaporative testing, but we
14 do need to be able to do our role and do it properly
15 before we would suggest going forward with an activity
16 that will be very economically impacting on the people
17 who we need to buy into the program of reducing
18 emissions, and that is each and every individual
19 consumer who's also a citizen of this state. Once
20 again, making sure we get their buy-in to participate
21 and not having someone show up and say it worked before
22 I had it checked and now it doesn't.

23 So these are the kinds of concerns. And as
24 to the specifics, I would like to work with ARB in the
25 preparation of a comment back to you as to the things

1 that we are specifically looking at.

2 CHAIR WEISSER: Excellent. I support the
3 need for due diligence in terms of you ensuring as best
4 you can that something that you might roll out to the
5 public and the industry is going to work as hoped. My
6 only – well, I would appreciate your doing what exactly
7 you promised to do. It's the timeframe from 2000 to
8 2005, but you know, that time is gone and there's
9 nothing we can do about that. I guess I want to focus
10 on what can we do now to look at this in a timely
11 fashion and make an appropriate decision one way or
12 another, because it does sound like there are a lot of
13 emissions to be garnered. Heck, maybe we could use
14 some of that \$114 million that's been loaned to the
15 General Fund and just buy this equipment for the
16 industry. That was a joke. Thank you for smiling,
17 Chief Ross.

18 Are there other questions or comments? Okay.

19 MEMBER LAMARE: One question.

20 CHAIR WEISSER: Ah, Jude, you are back.

21 MEMBER LAMARE: Just in reviewing the August
22 17th, 2000 letter to Felicia Marcus from Mike Kenney
23 describing what the state will do to improve Smog Check
24 and remain in compliance with their SIP commitments on
25 Smog Check, I notice that there is a section here

1 called Transportation Conformity in the South Coast in
2 which these additional supplemental measures in Smog
3 Check are linked to the Transportation Conformity
4 finding in the South Coast Air Quality Management
5 District Transportation Plan, and that putting into
6 question whether the South Coast is now actually can
7 find itself in conformity with the Air Quality Plan
8 since this measure was not implemented, and I think
9 we're talking several billion dollars worth of federal
10 funding being at stake.

11 So if you roll that into the economic
12 analysis of the impact of the program, I think you
13 might quickly come to the conclusion that it's time to
14 move on and get the regulation adopted and get the
15 emission reductions implemented to conform with the
16 State Implementation Plan, the promises that the state
17 made to the federal government.

18 I would like to ask why or whether the
19 agencies have considered kind of a pilot program
20 approach, since I know in putting together the enhanced
21 Smog Check of course we had a lot of these same issues
22 on a much broader and bigger scale raised, and at the
23 time, the Bureau began implementing the new Smog Check
24 requirements on a pilot basis, and actually Sacramento
25 was blessed to be able to get some early emission

1 reductions because of that.

2 Clearly in this case it's the South Coast
3 that's facing the 2010 deadline to reach the one-hour
4 ozone standard and desperately needs to reduce
5 hydrocarbons. Evaporative emissions are a major, major
6 part of that. South Coast is a huge mobile source
7 emissions inventory that even an imperfect
8 implementation of an evap program could make a big
9 difference, and if you implement it on a pilot program
10 basis to test some of these problems and assumptions
11 instead of just doing a little study of 20 vehicles
12 here, 30 vehicles there in El Monte, have the agencies
13 considered a pilot program implementation for the South
14 Coast for the evaporative regulation as a way to comply
15 with their promises but also address some of the
16 implementation issues they've identified?

17 CHAIR WEISSER: Either agency have something
18 they'd like to say in response?

19 MS. MORROW: Sylvia Morrow with the
20 California Air Resources Board. You know, at this
21 point I don't think we've thought about doing a pilot
22 project in the South Coast area on this (inaudible)
23 evap.

24 And then in regards to the Transportation
25 Conformity issue with the South Coast, those numbers

1 | were based on a different EMFAC, and since that time
2 | the South Coast has new transportation conformity
3 | budgets so those that are in that August 2000 letter
4 | are no longer applicable, so there's not going to be a
5 | conformity crisis in the South Coast, not that I'm
6 | aware of any time soon.

7 | CHAIR WEISSER: Thank you. I will withdraw
8 | my offer to send a resuscitator down to Mark Bazano
9 | (phonetic).

10 | I think the issue associated with the
11 | potential of some sort of demonstration project is
12 | still something that sounds to me to be a reasonable
13 | idea to think about as a way of checking out some of
14 | the uncertainties that clearly exist in your minds and
15 | I think it's a constructive suggestion, Jude.

16 | In any event, I appreciate Chief Ross's offer
17 | with the ARB's cooperation to pull something together
18 | in the next couple weeks to give us an idea of the
19 | issue areas that you're looking through. Does that
20 | work for you, Sylvia, a couple weeks, and kind of a
21 | timeframe that we might be able to see this thing
22 | covered? That would be helpful.

23 | And let's open it up to questions or comments
24 | from the audience, starting with Mr. Peters. Please.

25 | MR. PETERS: Yes, now that the private

1 conversations have ended, I'll continue. This is
2 Charlie Peters, Clean Air Performance Professionals.
3 What we've got here, it appears to me, as though to be
4 making a business effort to make some money off of
5 providing industry to the State of California. Going
6 back to 1991 when I went to the Air Resources Board for
7 the IM Review Committee meetings there, the Tom and Tom
8 Show, EPA was there and making their presentations as
9 to why we had to go to an enhanced program, and talked
10 all of the improvements in hydrocarbon by the program
11 were from the fuel evap testing proposal.

12 We went for many years never did anything
13 because it was all baloney because it wouldn't work.
14 Nobody was able to make it work at all.

15 I see no real evidence that anything here -
16 there's some strong questions as to whether any of this
17 is still going to work, but we're still bound and
18 determined to get a whole lot of money from the people
19 that provide the program without necessarily making any
20 benefits.

21 I would say to you, sir, that we've been
22 proposing an audit of the program to find out if what's
23 broken gets fixed, and you can look at the fuel evap
24 hoses and find probably most of the faults that you'll
25 find with the equipment and fix them, and find out if

1 in any of the problems that we got by knowing which
2 cars should fail and finding out if in fact they got
3 fixed, and if they didn't, finding an opportunity to
4 get them fixed, which would probably double, triple,
5 maybe a lot better the effectiveness of the CAP dollars
6 being spent, improve the performance of the program,
7 cut the fraud, improve the failure rate and benefit in
8 excess of 1,000 tons a day.

9 So, but of course, you can't consider that
10 because I'm not here with a huge pile of money that I'm
11 ready to pay anybody to help me get my job done. To
12 hell with the consumer, to hell with the air. We're
13 going to take care of the contractors who wish to make
14 money here and not look at something that's a real
15 possibility that I have said to you, Mr. Chairman,
16 probably a thousand times, and you sit there with a
17 look on your face that, oh, gee, Charlie doesn't have
18 any money here, so we don't care about him, we don't
19 care about the air, we don't care about the customer,
20 we just care about making some money for our contractor
21 friends, and I'm tired of it, Mr. Chairman.

22 CHAIR WEISSER: I hope that felt good,
23 Charlie. Next question.

24 MR. PETERS: I'll continue if you like, sir.

25 CHAIR WEISSER: No, I wouldn't. Sit down.

1 MR. PETERS: Thank you, sir.

2 MR. TRIMLETT: Len Trimlett, smogrfg. First

3 of all, general comment. Please ask the people to

4 speak into the microphone. When they don't speak into

5 the microphone and they're facing this way, the sound

6 goes that way, you can't hear back here.

7 CHAIR WEISSER: Were you able to hear

8 Charlie?

9 MR. TRIMLETT: Who couldn't?

10 CHAIR WEISSER: Thank you. Start it again, I

11 don't want to use his time up for that little aside.

12 MR. TRIMLETT: Okay. My comments, number

13 one. The evap test has been approved in other states.

14 I would like to hear as a part of Chief Ross's comments

15 next time why they rejected the systems from other

16 states and I would like to hear if this evap system is

17 a sole source contract. That's number one.

18 Number two. I see a real issue in the gascap

19 benefits test, okay. Yes, when you go and do your Smog

20 Check, you check that gascap to see that it is tight,

21 but when you actually unscrew the gascap to fuel up,

22 you hear a touch of air. You've got a big evap right

23 then and there. Has anybody thought of a way to stop

24 that evaporation of fuel?

25 Those are my two questions.

1 CHAIR WEISSER: Thank you. Anybody want to
2 comment? Bruce?

3 MEMBER HOTCHKISS: Actually, yes, I just saw
4 something, I think it was in *Automotive News*, that
5 there's a manufacturer that's come with basically it's
6 like a little trapdoor for the fuel filler that is
7 self-sealing, so you don't take the gascap off, you
8 push the nozzle through and it seals. Whether this
9 will ever be bought by the auto industry or not, but I
10 imagine eventually something like that would be
11 mandated, so that would prevent the escape of
12 evaporative emissions when you refuel.

13 MR. TRIMLETT: I think if ARB were to feed
14 that back and get that into manufacturers updates, it
15 would have great benefit to reducing evap.

16 CHAIR WEISSER: Thank you. Other comments?
17 Bud?

18 MEMBER LAMARE: Rocky has a comment.

19 CHAIR WEISSER: Oh, I'm sorry. Should it be
20 now or can you wait until –

21 MR. RICE: Hello, Bud Rice, Quality Tune-Up
22 Shops. Two quick comments.

23 First comment is for Ms. Lamare. I'll ask
24 you to move from one side of the other side of the
25 chair to a different microphone, but maybe that would

1 help.

2 CHAIR WEISSER: Yeah, that mic is broken.

3 MEMBER LAMARE: Oh, I'm sorry.

4 MR. RICE: Second one was, and maybe this is

5 for Dennis. The guys that I hang around with, Mr.

6 Chairman, is they've quite honestly just about had it

7 so far as the costs for equipment and the number of

8 cars that they're able to test. I had a chance to look

9 at Rocky's slide where he showed that the number of

10 cars that are being tested at test-only have now

11 exceeded the cars that are tested at test-and-repair,

12 and the guys I hang around with, Dennis, are kind of

13 starting to think, I'm not going to go to next. I

14 mean, why am I going to spend more money and go to

15 next, and how about if I just go look somewhere else to

16 please and service my customers, but I've just about

17 had it. So I don't know where that equals, you know,

18 gets its day in court here in terms of that kind of a

19 perspective. I think overall in the end whatever rules

20 and regulations get decided upon, someone's got to do

21 the work, and at the point where the guys that do the

22 work have had enough and they don't want to do it,

23 we've got a whole different set of problems then.

24 MEMBER DECOTA: Bud, I've got to agree with

25 you. I mean, what you're saying is true as far as the

1 feeling of industry as far as the test-and-repair
2 industry to invest a single dime into Smog Check. I
3 have members calling every me that are asking me how to
4 get rid of their equipment.

5 The problem is a simple problem to resolve,
6 and it's called profit. You know, if we can reduce
7 emissions as an industry and improve our profit and
8 become more proficient in what we do, the equipment
9 isn't a problem. What we have to do as the charge of
10 the industry as well as the charge of IMRC, ARB, BAR
11 and others, is to find a way that everybody can take
12 and make a living and reduce emissions, so we need to
13 do that in a manner that understands and has a little
14 bit more of a proactive nature to it than a reactive
15 nature to it.

16 CHAIR WEISSER: Thank you. Rocky.

17 MR. CARLISLE: I just want to make a comment.
18 Len I think had a valid point with regard to the evap
19 test, because in 2001 when research was being done on
20 the evap test there was some concern that when you
21 pressurize these systems to conduct the test, for
22 example, then you have to release the pressure on each
23 test that you do. Essentially, when you pressurize the
24 fuel tank, for example, to do the test, at some point
25 you're going to release that pressure and of course

1 it's going to go into the atmosphere when you do that,
2 and so there was a concern how much pressure vapor
3 would be exposed to the atmosphere at that point, and
4 it was literally in the pounds per year and not in
5 tons, so it was really insignificant.

6 CHAIR WEISSER: What I heard Len saying,
7 though, is every time you gas up you're allowing
8 emissions to escape unnecessarily and was interested in
9 Bruce's information that there at least is a proposal
10 for a technological fix that's been brought forward to
11 the auto manufacturers.

12 Very good. Are there other comments from the
13 audience? Sir.

14 MALE VOICE: I didn't come here for this
15 reason, but I will speak up. I'm an auto repair shop
16 owner, so I'm probably the only guy here that fixed a
17 car today.

18 CHAIR WEISSER: Could you tell us -

19 MALE VOICE: I'm sorry. I'm an auto repair
20 shop owner, so I'm probably one of the only people that
21 fixed a car today.

22 CHAIR WEISSER: Thank you. Could you tell us
23 what your name is?

24 MR. DANTA: My name is Patrick Danta, I have
25 a shop in San Francisco.

1 CHAIR WEISSER: Thank you.

2 MR. DANTA: And I came here for a completely

3 whole different reason, but as I just sat here and

4 listened, I'm an environmentalist, I totally believe in

5 cleaning up our air, but I totally hate (inaudible),

6 and every single (inaudible) is expensive. The

7 statistics that I'm kind of looking at that he's done,

8 they're not valid. They don't even add up. You know,

9 I'm sitting here doing it in my head. There's no way I

10 do 650 cars a year (inaudible).

11 He talked about (inaudible) like a geiger

12 counter to look at the machine specifically. If you

13 want to use this machine, you've got to buy a smoke

14 machine with it, period. The smoke machine that I

15 bought was \$2700, so what you're basically saying is

16 that if you want to be a smog shop, you're going to

17 spend another \$6,000 by the time the smoke clears for

18 this program, and that's going to really upset the rest

19 of us.

20 The other part of it is that what I'm seeing

21 standing back looking at it is, I'm never going to use

22 it, because right now test-onlys are doing most of all

23 the cars right now, I do none. That's why I came here.

24 One of the main reasons I came here is because all the

25 cars in San Francisco are directed to gas stations. We

1 do no work anymore. I went from doing last year maybe
2 ten smogs a week, now I do zero. I took a larger ad
3 out this year (inaudible) and giggling all the way to
4 the bank while they're doing it.

5 Most of the cars that I get now, if I get
6 any, are maybe 1996 to 1998, so for two model years
7 you're going to make me buy \$6,000 worth of equipment
8 for two model years I only get to do? You know, I
9 mean, basically the equipment, and no disrespect at
10 all, but he came here just sell, make us buy something,
11 that's what it's all about.

12 All the car dealers, every single car
13 manufacturer is going to be upset by this because all
14 the dealers will have to buy it and it's just going to
15 sit there and collect dust because they don't do smogs
16 anymore. Do you know how many millions of dollars
17 we're talking? That's a \$2-1/2 million investment.
18 Pretty good return if you can sell \$50 million worth of
19 equipment.

20 I mean, I'm all in favor of cleaning up the
21 environment, but you know, before you do this you
22 really better look at it a little bit more carefully
23 and look in my pocketbook, because all you've done is
24 take money from my family. That's it, you took money
25 from my kids, because I'm not going to use the machine,

1 and the guys that do get it, they're going to start
2 ripping off the consumers. That's how they're going to
3 make their money back, (inaudible). Guys (inaudible)
4 made me buy the thing. I'm going to sell it, I'm going
5 to sell emission repairs whether they need it or not,
6 and every two years is not the way to do it. I mean,
7 if you really want to get down to the nitty gritty,
8 market it to the public as an environmental way of
9 saving gas, put them at the gas pump. I mean, we sit
10 there and Arnold wants to talk about (inaudible), they
11 want to talk about monitoring our mileage, and you can
12 do that which easily puts this (inaudible).

13 CHAIR WEISSER: Thanks very much.

14 MR. DANTA: But I mean, it's something to
15 think about.

16 CHAIR WEISSER: Thank you. Are there other
17 comments? Yes.

18 MR. CONWAY: John Conway, Menlo Park Chevron,
19 also a SERA director. I just want to make a couple
20 remarks (inaudible), but I think you're putting the
21 cart before the horse here. We really need to fix the
22 existing Smog Check Program before you ask us as
23 business owners to go out and make another decision to
24 buy another piece of equipment. I am now doing less
25 than 100 smogs a month, so I think it's inappropriate

1 that you're coming to the business owners again to make
2 another decision to buy another piece of equipment,
3 it's just not right. Thank you.

4 CHAIR WEISSER: Thank you very much. Yes,
5 we'll have one last comment and then we're going to
6 take a brief bio break.

7 MR. MOW: Vince Mow, environmental
8 consultant. First, I'd just like to dispel any
9 concerns that I'm a manufacturer or that I make a cent
10 from selling any equipment. I've been in the equipment
11 business and I probably will never be again.

12 But on the other hand, it's clear that the
13 industry is suffering and I mentioned that during my
14 presentation, and the last thing I want to see is guys
15 that have to repair cars for a living forced to buy a
16 piece of equipment they can't use.

17 The only facts that I know are that there
18 are, you know, a lot of vehicles that are leaking evap
19 and they're going to have to be repaired. I mean,
20 we're talking about 10 million vehicles a year subject
21 to this test and a million of them failing. Somewhere
22 those million vehicles are going to get significant
23 repairs that result in significant air quality
24 improvements. And by whatever means we have to
25 distribute the ability to do that testing and repair,

1 it needs to be done, and hopefully it can be done in a
2 fair manner.

3 And just in response to both Chief Ross and
4 Sylvia Morrow's comments, I wanted to direct them both.
5 They've received copies of this document which you also
6 have in your packages and that's available on the back
7 table, the BAR Low Pressure Fuel Evaporative Pressure
8 Test Evaluation of Test Accuracy and False Failure
9 Expectations.

10 I think we've dealt with the issue of false
11 fails very thoroughly here. If anything has been
12 missed, I will pledge my time and effort to respond
13 completely to any concerns that exist after this has
14 been looked at, but I'm pretty sure we have covered
15 that issue.

16 MEMBER DECOTA: So it's not five percent is
17 what you're saying.

18 MR. MOW: Oh, no, it nowhere's near. The
19 false failures, based on data that we have got that
20 already exists, it's less than .3 of 1 percent.

21 MEMBER LAMARE: Question.

22 CHAIR WEISSER: Thank you. Jude?

23 MEMBER LAMARE: Question. Did you refer to a
24 report called BAR Low Pressure Fuel Evaporative
25 Pressure Test Evaluation of Test Accuracy and False

1 Failure Expectations?

2 MR. MOW: And False Failure Expectations,
3 right.

4 MEMBER LAMARE: And so who is the author of
5 that report?

6 MR. MOW: I'm the author of this paper.

7 MEMBER LAMARE: And what is the date?

8 MR. MOW: I prepared this about two weeks
9 ago.

10 MEMBER LAMARE: It's current.

11 MR. MOW: Yeah, it's current.

12 MEMBER LAMARE: Thank you.

13 MR. MOW: Sure.

14 CHAIR WEISSER: Thanks very much. Folks,
15 we're going to take a ten-minute break and then go into
16 general public comment, and we will be concluding –
17 (Off the record.)

18 – o0o –

19 CHAIR WEISSER: If we could take our seats.
20 Thank you. The meeting will reconvene. What I'd like
21 to do now with the Committee's acquiescence and
22 approval is just open it up to our regular public
23 comment, starting off the Committee members.

24 Oh, yeah, I'm sorry. Thank you, Dennis.

25 Dennis reminds me that we have a motion on

1 the floor that's been seconded regarding - I forgot
2 even what the bill number was.

3 MEMBER DECOTA: AB383.

4 CHAIR WEISSER: 383. And we were going to
5 get some additional information from Jude associated
6 with the consumer survey and then get closure on that
7 issue.

8 MEMBER LAMARE: I'd like to do that.

9 CHAIR WEISSER: Please, Jude.

10 MEMBER LAMARE: So what tab are we under now?

11 MEMBER DECOTA: I believe it's three.

12 MEMBER LAMARE: No, not under the bills.

13 CHAIR WEISSER: I thought it's five, Jude.

14 MEMBER LAMARE: All right, under five, then,
15 there's a draft memorandum that's available on the back
16 table addressed to Vic and Rocky and Dick Ross and Tom
17 Cackette from me dated April 11th. What this consists
18 of is a little bit of further analysis on the consumer
19 survey information that was presented last time to this
20 Committee, and as you will recall, the consumer
21 information survey was conducted by a company called
22 Form 10 and we got a summary of the results at our last
23 meeting. I wanted to recap the summary findings and
24 then pick out here some significant additional findings
25 that we've had through further data analysis.

1 So, remember I said earlier today that 79
2 percent of the respondents to the survey said that it
3 was easy or somewhat easy to find a test-only station,
4 that 82 percent said that complying with the inspection
5 was easy or somewhat easy, and that 80 percent found it
6 easy to fix their cars. So we're looking at a group of
7 vehicle owners, these are people whose vehicles failed
8 Smog Check and they fixed them, took them back through
9 for a second inspection. These are folks are fairly
10 satisfied with the program and the process.

11 In general, they were not looking for
12 information or financial help from BAR. 62 percent
13 found that the repairs took one day or less to
14 complete, 60 percent reported that their repairs cost
15 them less than \$250, and 7 percent of the total sample
16 received assistance from the state, 65 percent of those
17 who received assistance in this sample were test-only
18 eligible recipients; that is, their income was not an
19 issue.

20 So that's the general background of the
21 overall results based on 566 interviews of people who
22 had had recent experience with Smog Check.

23 Now, I wanted to look more carefully at the
24 data to see if there were some significant differences,
25 first by air basin, second by income eligibility, third

1 by people who are receiving BAR assistance. That
2 turned out to be quite a small group but we wanted to
3 know whether those who received BAR assistance somehow
4 had a different experience with the program than those
5 who did not.

6 So just looking at air basins, initially we
7 divided the air basins into six and found that there
8 weren't really big differences between, say, Sacramento
9 and the rest of the Central Valley, so I grouped them
10 together. Also found there were not big differences
11 between San Diego, Orange and San Bernardino, so
12 grouped them together. So then in the analysis there
13 were four air basins, L.A. County being one, the rest
14 of southern California another one, the whole valley
15 all the valley people including this area was another
16 one, and the Bay Area the final one. So what I'm going
17 to mention here are just some ways in which the
18 different regions of the state experience the Smog
19 Check Program differently.

20 And I have to say also that a couple meetings
21 ago I presented some information about Gold Shield
22 stations and showed that L.A. County Gold Shield
23 stations, number of vehicles per Gold Shield station
24 was quite a bit lower than in other areas of the state,
25 and so I was very curious about what we would find out

1 about L.A. County in this particular survey, and as you
2 recall, there were 147 interviews alone in L.A. County
3 and L.A. County is 29 percent of the vehicle owners, at
4 least I think it was something like 29 percent or very
5 close to that of our vehicle owner population, so I'm
6 encouraging all of us to start thinking of L.A. County
7 as a world in and of itself because some of the results
8 we're finding are somewhat unique for that area, and it
9 is a big whack of our program all by itself.

10 First of all, in looking at the results we
11 found that there was a greater interest in test-only by
12 those not required to use test-only, and what I mean by
13 that is that we did ask people what factors they
14 thought about when they chose the station that they
15 were going to get their inspection at. And even those
16 who were not required to go to test-only in L.A.
17 County, a fairly large proportion were looking at test-
18 only as one criteria.

19 Also, L.A. County was the area that was where
20 people were least likely to use CAP assistance. It was
21 a very, very small percentage.

22 And also in L.A. County we found the quickest
23 turnaround for repairs. That is, 47 percent of the
24 sample said that they got their repairs done in less
25 than a half day, and this was significantly shorter

1 time than in the other regions of the state.

2 So we now have compiled, I think, some
3 interesting information about how L.A. County is
4 different, enough so that I would definitely want to
5 have a hearing held in L.A. County, specifically maybe
6 even generate some testimony or try to get some folks
7 to come in and talk about their perceptions of the
8 program and see if we can learn more about it. And not
9 just because I grew up in Los Angeles.

10 CHAIR WEISSER: Where are your gold chains?

11 MEMBER LAMARE: I'd have to go back
12 (inaudible) on my style.

13 So, now what about the Bay Area? The Bay
14 Area is the area that's been the last one to come to
15 the enhanced program, and we found that in the Bay Area
16 there were more problems than in other basins. That
17 is, there was a lower awareness about test-only
18 direction, more people had problems understanding where
19 they were going, that they needed to go, where they had
20 to go for test-only. But I say that in the context
21 that if they were directed to test-only, most people
22 understood that before they showed up at a testing
23 station. It's just that in the Bay Area it was 68
24 percent as opposed to 80 percent in the rest of the
25 state. So there is some evidence in the Bay Area that

1 the market is still going through the learning curve on
2 how the Smog Check Program works.

3 Now, the Valley was the most likely area to
4 use the CAP assistance program. A significantly larger
5 percentage of Valley vehicle owners said that they used
6 CAP assistance, and they were also more likely to be in
7 the shop longer. And there is a correlation between
8 those two factors, obviously. We've heard in this
9 Committee before those people who choose to receive CAP
10 assistance also tend to have a longer time getting
11 their approvals, the faxing back and forth and so on,
12 and that showed up in our data.

13 So that summarizes, and you can kind of read
14 for yourself what the specifics are, but that
15 summarizes our findings by air basin.

16 Now, the other thing we wanted to try to find
17 out about is, are those vehicles who are income
18 eligible for CAP assistance getting it? And although
19 we weren't able to ask the kind of income questions
20 that we wanted to ask, we were able to ask motorists to
21 fit themselves into one of four income categories, and
22 we also asked them how many people were in their
23 household, and so we were able to estimate for some
24 people that they were indeed eligible for CAP, some
25 people that we knew they were not eligible for CAP, and

1 then another group where the questions really didn't
2 allow us to determine or they refused to answer the
3 income question, which left them in a group that was
4 undetermined. So, 46 of our respondents, we couldn't
5 tell if they were CAP eligible or not CAP eligible, 17
6 percent we felt fairly certain were eligible, and 37
7 percent were not.

8 And I'll just mention here that if you take
9 the census data and the eligibility criteria for income
10 eligible for CAP assistance, about 27 percent of the
11 adult population between 18 and 64 falls in that
12 category, so we would expect more than a quarter of the
13 vehicle owners out there to be income eligible for CAP
14 assistance, but we found in our sample that 17 percent
15 we could be pretty confident were income eligible. And
16 of that group, that group alone, only 14 percent said
17 that they had gotten CAP assistance. So, given that
18 estimate, I think we can say with some certainty that a
19 very small percentage of the eligible CAP assistance
20 are actually getting CAP assistance in our state today.

21 We also wanted to find out if we could find
22 any reason to think there was problems with ping-
23 ponging, and that's reported on the last page of this
24 little report, and that is that we compared those who
25 were required to use a test-only station with those who

1 were not required to use a test-only station to see if
2 there were statistically significant differences in how
3 easy it was for them to get their first Smog Check and
4 how easy it was to get their second Smog Check, and
5 there was no difference. So, I think from that I would
6 conclude that we're really not seeing in this sample
7 that there's a significant impact on ping-ponging from
8 the test-only requirement.

9 Any questions?

10 CHAIR WEISSER: Dennis?

11 MEMBER DECOTA: Jude, California Service
12 Station Automotive Repair Association for the past 12
13 weeks (inaudible) at their station we've received over
14 13,000 consumer signatures with regards to their
15 unhappiness with being ping-ponged from shop to shop,
16 and it is true that my association members are
17 prominently in the Bay Area, but these surveys are
18 going out statewide to every ARD that's licensed to do
19 Smog Check, and by no means is it prominent within the
20 Bay Area itself. So I have a little bit of a doubt
21 whether that your survey is accurate in that regard.

22 CHAIR WEISSER: Well, let's, if I could, try
23 to pin this down a little bit. The survey, you're
24 basing your statement on a comparison of the difference
25 between directed and non-directed people who go to

1 test-only; is that correct?

2 MEMBER LAMARE: Basing the comparison between
3 those who are directed and those who are not and how
4 they evaluated how easy it was for them to get their
5 Smog Check.

6 CHAIR WEISSER: So the perception that your
7 reporting is in this survey those people did not show a
8 significant difference in their saying it was easy or
9 difficult between those two samples.

10 MEMBER LAMARE: Right, doesn't say that
11 nobody ever had a problem, it just says that there was
12 no significant difference in the reporting of their
13 generalized experience with the program between those
14 who were required to use test-only and those who were
15 not.

16 MEMBER DECOTA: I see. I think it's two
17 different issues.

18 CHAIR WEISSER: It is. I'd be also, Dennis,
19 curious that you perhaps could show us at the next
20 meeting a sample of the survey and what the customers
21 are being asked.

22 MEMBER DECOTA: That's no problem, I'll do
23 that.

24 CHAIR WEISSER: Any other questions? I'm
25 struck, Jude, by the 3 percent figure for L.A. County

1 receiving financial assistance from CAP.

2 MEMBER LAMARE: Compared to 17 percent in the
3 Valley.

4 CHAIR WEISSER: It's just striking. And BAR
5 has showed us in prior hearings or meetings the efforts
6 that are undertaken to inform people of the program.
7 One is drawn to the conclusion or is being drawn toward
8 the conclusion that those efforts, as good as they've
9 been, are still failing to, you know, reach the target
10 group. There's a lot of education that needs to take
11 place and in one way or another information that has to
12 be transmitted. It's quite challenging, obviously, and
13 it's something we want to look at.

14 I guess the other thing that I'm drawn to is,
15 and I don't mean to diminish the survey, but the
16 reality is it's a very small survey, very limited in
17 scope, very limited number of questions and further
18 delimited by the constraints placed on the type of
19 questions we could ask. It's raised some, I think,
20 extraordinarily interesting issues, and to me, sends
21 off all sorts of signals that additional broader and
22 more regular surveys of this sort would be really
23 desirable to perform from the Department's and from
24 this Committee to track these customers and find out
25 what's going on.

1 So I commend you for the work. This has not
2 been easy. Not one step of this process has been easy,
3 Jude, and you've -

4 MEMBER LAMARE: (Inaudible)

5 CHAIR WEISSER: You've managed to push
6 through it and I think there are some striking
7 indications that bear and really could deserve further
8 exploration, because I think there are some potential
9 real opportunities here to improve the program.

10 MEMBER LAMARE: Well, I think this sample
11 size is adequate for the purpose that we're using it
12 for. That is, I think these are reliable estimates.
13 The sample size is good. I have some questions about
14 how can we reach - I think the survey was stretched out
15 over too long a period of time, that it should have
16 been able to have been performed quite quickly. I
17 think the right contractor could make it happen a lot
18 faster, but that would help in terms of the reliability
19 that you know you're getting a snapshot of that group
20 that's just gone through and not stringing it out.

21 The way the results have been presented to
22 the Committee and the public is very fragmented, and I
23 think Rocky has assured me that he and I will put
24 together a real report that will allow people to read
25 it and review it and then comment on it.

1 CHAIR WEISSER: That would be really helpful.

2 MEMBER LAMARE: Our concern was that we were

3 getting results and that we didn't want to wait six

4 months to get the specific results to the Committee and

5 the public about what we were finding, we didn't want

6 to have mysteries out there, and so we've gotten it in

7 a fragmented kind of a fashion.

8 CHAIR WEISSER: Well, that would be terrific.

9 Now on to AB383 and my binocular vision informs me that

10 we no longer enjoy a quorum, and therefore -

11 MEMBER HISSERICH: We've got six of ten.

12 CHAIR WEISSER: We need seven of thirteen, I

13 believe.

14 MEMBER HOTCHKISS: There's seven of us.

15 CHAIR WEISSER: I can't count, folks. We

16 have a quorum.

17 COMMITTEE MEMBER: I could leave if you don't

18 want one.

19 CHAIR WEISSER: Well, I definitely want one.

20 I guess I wasn't counting right.

21 COMMITTEE MEMBER: I just snuck back in,

22 maybe that's why.

23 CHAIR WEISSER: Perhaps. Okay. Would

24 someone repeat the motion? Wasn't it to inform -

25 Rocky, give us your best shot. It was to inform the

1 author that the Committee supports applying the same
2 income standards to test-only and test-and-repair?

3 MR. CARLISLE: Correct, yes.

4 CHAIR WEISSER: Something along those lines,
5 right?

6 Jude, you have a puzzled look.

7 MEMBER LAMARE: Well, there's two kinds of
8 eligibility in the law. One is all you have to do is
9 be directed to test-only. The other one is you meet an
10 income test. There are payoffs that are different, so
11 I don't agree with the characterization of the motion.

12 CHAIR WEISSER: Would you please restate the
13 motion?

14 MR. CARLISLE: The one I had was made by Jude
15 to write the letter to Montañez eliminating the 250
16 percent at test-only; it should be the same as test-
17 and-repair.

18 CHAIR WEISSER: No, I know that's not
19 accurate.

20 MEMBER LAMARE: To delete test-only
21 eligibility from the Consumer Assistance Program.

22 CHAIR WEISSER: And to allow consumer
23 assistance for the same qualified folks as receive it -

24 MEMBER LAMARE: No, just leave it. The
25 income eligible recipients are eligible whether they go

1 to test-only or whether they go to test-and-repair now.

2 CHAIR WEISSER: But the intention would be to
3 provide for the same sort of consumer assistance
4 regardless of which station you are going to; is that
5 correct?

6 MEMBER LAMARE: I think that the bill AB383
7 is attempting to increase the eligibility under the
8 income category so that more people will be eligible.
9 We're going to be silent on that. We're only
10 addressing the ability under today's law that if you
11 are directed to test-only, you are eligible to receive
12 \$100 credit on your car repairs that the state will pay
13 just because you were directed. And our survey
14 indicates that there is no particular problem with
15 being directed to test-only. There's plenty of
16 stations, they're not inconvenienced in trying to find
17 one. Those who were directed to test-only have no more
18 complaints than those who weren't about how easy it is
19 to do their Smog Check. Therefore, the Committee finds
20 that there is no basis in fact to conclude that test-
21 only direction in and of itself creates a hardship that
22 the state must somehow assuage with consumer assistance
23 support; therefore, this Committee would find that
24 there is no need for and recommend deletion of test-
25 only directed eligibility for the Consumer Assistance

1 Program, period.

2 CHAIR WEISSER: I will characterize what Jude
3 just put forward as a substitute motion to the original
4 motion. Is there a second? Mr. Hotchkiss seconds. Is
5 there discussion on the part of the Committee of the
6 substitute motion?

7 MEMBER HISSERICH: I have before me only the
8 summary that's here, and clearly it does do that, takes
9 the test-only piece out. But it also, and maybe we're
10 not commenting on this but just to be clear, this says
11 that it increases the income qualification to 225
12 percent of the federal level, but then below that it
13 modifies the test-only directed CAP qualification to
14 also require income eligibility of 250 percent of the
15 federal poverty level. Was that accurate, because I
16 don't have the bill in front of me? That seems – and
17 nor do we necessarily have to vote on those; I just
18 want to kind of understand what those pieces are.

19 CHAIR WEISSER: The bill, as I understand it,
20 does increase the percentage, which in turn would
21 increase the number of people who would be eligible for
22 consumer assistance.

23 MEMBER HISSERICH: Right.

24 CHAIR WEISSER: I believe that we already
25 came out in support of that.

1 MEMBER HISSERICH: I thought we did
2 previously.

3 MEMBER LAMARE: No. The first version we did
4 it like that.

5 CHAIR WEISSER: Yeah, the first version we
6 came out supportive of the increase to allow more
7 people to qualify.

8 MEMBER HISSERICH: Right, that's what I
9 thought.

10 CHAIR WEISSER: What we're addressing now is
11 the second part which Jude has put forward in this
12 revised motion.

13 MEMBER HISSERICH: And I would agree with
14 that.

15 CHAIR WEISSER: Are there any other
16 questions? Okay. Yes, Mr. Pearman?

17 MEMBER PEARMAN: Do we have any idea of how
18 much money would be, quote/unquote, 'saved' by no
19 longer making this tribute payment?

20 CHAIR WEISSER: I have no idea.

21 MEMBER LAMARE: I think the Bureau has
22 reported in the past that 55 percent of the Consumer
23 Assistance Program payments are going to test-only
24 eligible claimants, and so whatever the number is, I
25 think maybe it was \$12 million last year, something

1 around \$12 million, so clearly they'll save more than
2 \$6 million.

3 CHAIR WEISSER: Well, no Jude, I don't think
4 that's the case, because I think a certain number of
5 those people would be able to qualify under the regular
6 Consumer Assistance Program, and I'm not sure we have a
7 way of making an educated guess as to how much.

8 MEMBER HISSERICH: And if the limit is raised
9 there'd be more people (inaudible) as well.

10 CHAIR WEISSER: That's correct. So I don't
11 think we're capable. It's going to be somewhere
12 between zero and \$12 million.

13 MEMBER PEARMAN: Would it be out of place to
14 in our motion suggest that any savings not go to repay
15 the state debt but be used if appropriate for the CAP
16 program, could we put that tag line in there? If we're
17 talking about a few million dollars could we suggest
18 that we'd like to make sure it stays here? They may
19 not listen to us, but -

20 CHAIR WEISSER: I don't think that's part and
21 parcel of this piece of legislation, and therefore, I
22 do not believe it is germane to the issue at hand. I
23 think that sort of case needs to be made in the budget
24 process, not in this piece of legislation. That's my
25 personal opinion. Others may disagree. I support your

1 sentiment completely.

2 MEMBER LAMARE: Well, the bill is going to be
3 in Appropriations Committee.

4 CHAIR WEISSER: If the Committee wants to put
5 in a tag line, make a motion to amend the motion on the
6 floor, Bob, and we'll take a vote on it.

7 MEMBER LAMARE: (Inaudible)?

8 MEMBER PEARMAN: Well, I mean who would have
9 to act on that, I mean, is that something that DCA
10 would actually wind up acting on it?

11 CHAIR WEISSER: No, this is out of the hands
12 of BAR, DCA, ARB. It would be in the hands of the
13 Legislature and the Administration through the budget
14 process.

15 MEMBER LAMARE: And the bill is in
16 Appropriations Committee, is it not, Rocky, and it's
17 very appropriate to that venue.

18 MEMBER PEARMAN: Well, I still think a tag
19 line saying, you know, we also recommend that the
20 savings be directed or focused on this area as
21 appropriate.

22 CHAIR WEISSER: Any savings that would result
23 from this.

24 MEMBER PEARMAN: Yeah. Not be spent on
25 weapons of mass destruction, but something more

1 suitable.

2 MEMBER HOTCHKISS: Just as a comment that

3 will go absolutely nowhere, I'd like the savings to go

4 to my members.

5 CHAIR WEISSER: Thank you, Bruce. That will

6 go absolutely nowhere except to everyone who reads the

7 transcript.

8 Folks, we're running rapidly out of time, so

9 are you making that motion to amend the –

10 MEMBER PEARMAN: Yes.

11 CHAIR WEISSER: So we're going to do very

12 quickly a vote on – you need a second to that. Is

13 there a second to –

14 MEMBER DECOTA: Seconded.

15 CHAIR WEISSER: Seconded by Mr. DeCota. Is

16 there any discussion? Hearing none, we'll take a vote

17 on the proposal to amend the original amendment by

18 including a statement saying or urging that any funds

19 that might be saved through this measure be retained in

20 the program for worthy consumer assistance to lower

21 income motorists, car owners I should say. All in

22 favor please signify by saying aye.

23 IN UNISON: Aye.

24 CHAIR WEISSER: Any opposed? We'll show that

25 it's passed six to zero with me abstaining.

1 MEMBER LAMARE: Now can we get to the main
2 motion?

3 CHAIR WEISSER: Now we will move to the main
4 motion. Is there any further discussion on the part of
5 the Committee? Hearing none, we will take a vote on
6 the main motion. All in favor please signify by saying
7 aye.

8 IN UNISON: Aye.

9 CHAIR WEISSER: Are there any opposed?
10 Hearing none, the motion is carried unanimously. Thank
11 you very much, Jude, and thank you, Committee members.

12 - oOo -

13 We're getting close to the end of today's
14 race, but I would like in the remaining time to allow
15 for general public comments. For those of you who have
16 to run to airports, you're going to have to run. I'm
17 going to have to go very, very soon for I have a child
18 care responsibility.

19 Rocky, did you have something you wanted to
20 talk about before -

21 MR. CARLISLE: Yeah, I just wanted to make a
22 quick request if we could for the industry if they have
23 any comments on that survey with regard to item number
24 one, the subcommittee assignments, preconditioning
25 issue, that they let me know (inaudible) survey.

1 CHAIR WEISSER: How do you want them to make
2 those comments to you?

3 MR. CARLISLE: Either in writing or they can
4 make them publicly.

5 CHAIR WEISSER: Or call Rocky or email Rocky.

6 MR. CARLISLE: Right.

7 CHAIR WEISSER: Rocky, what I'm going to do
8 is to suggest that anyone in this room that has a
9 suggestion they want to make today remain in the room
10 and speak to Rocky directly following the meeting.

11 MR. CARLISLE: That's fine.

12 CHAIR WEISSER: Okay. And certainly you
13 might want to send an ET Blast or whatever vehicle you
14 use to try to solicit a broader input from folks.

15 So, we're going to open it up to general
16 public comment, and want to particularly hear people
17 who - I think, Patrick, you indicated you had something
18 you wanted to say?

19 MR. DANTA: Yes.

20 CHAIR WEISSER: Please.

21 MR. DANTA: The main reason that I came -

22 CHAIR WEISSER: Hold on for one second and
23 please identify yourself again and put him on the
24 timer.

25 MR. DANTA: I'm Patrick Danta, an auto repair

1 shop owner in San Francisco. The main reason I came
2 here was it was suggested or recommended by Rocky to
3 come here to this meeting today. My main concern was
4 that a year after when I bought my smog machine, I went
5 to all the different meetings held by the Bureau of
6 Automotive Repair and I was told at those meetings that
7 no repair shop owner or person could own the underlying
8 property of a test-and-repair at a test-only station.
9 That means that I bought a \$50,000 machine thinking
10 that that was true. Well, we come to find out that
11 Shell owns the underlying property of test-and-repair
12 and test-only locations, and based off of your – the
13 Bureau of Automotive Repair regulations, that's
14 illegal, they can't do that. The 76 station around the
15 corner from me is doing test-only. There's a 76 on the
16 other side of San Francisco that's doing test-and-
17 repair.

18 CHAIR WEISSER: So these are two different
19 stations.

20 MR. DANTA: They're two different stations,
21 but –

22 CHAIR WEISSER: Both owned by the same
23 company.

24 MR. DANTA: No, not the stations. The
25 stations are franchised, but the underlying property is

1 owned by Unocal, which Rocky told me prior to me buying
2 my machine they couldn't do, so I bought my machine,
3 and lo and behold, my smog business dried up to
4 nothing. These guys are giggling all the way to the
5 bank. They're subsidizing the oil industry and the
6 problem that I see with it is that fair market value of
7 the rent that they would be paying on those locations
8 would be about \$15,000 a month, but being two, they
9 (inaudible), because I sublet my test-only smog but I'm
10 a test-and-repair, which they can't do, but nobody's
11 watching, and they just laugh. They're laughing all
12 the way to the bank on this and nobody's watching.
13 There's nobody minding the store.

14 CHAIR WEISSER: Patrick, have you brought
15 this issue directly to the Bureau of Automotive Repair?

16 MR. DANTA: Yes, and one of the questions I
17 got was, prove it. That was what I got. So I called
18 Rocky because he was the only one I knew, you know,
19 that I thought, well, hey, you said it to me. I was at
20 the meeting, I have witnesses, and he goes, yeah.
21 That's when he said come to this meeting today, so I
22 took a day off work to come to this meeting just for
23 this purpose to explain this, and then I found
24 something else that I thought I should mention.

25 CHAIR WEISSER: Which I appreciate. So, but

1 | you've spoken to the people in the Bureau of Automotive
2 | Repair about this issue -

3 | MR. DANTA: Yeah, and they just -

4 | CHAIR WEISSER: - and they said, prove it.

5 | MR. DANTA: Prove it, that was exactly their
6 | words, prove it, you prove it. I said, well, it
7 | wouldn't really be that hard, all you'd have to do is
8 | ask all the gas stations to show who is the owner of
9 | the underlying property.

10 | CHAIR WEISSER: Maybe what we could -

11 | MR. DANTA: I can prove it in San Francisco
12 | (inaudible).

13 | CHAIR WEISSER: Maybe what we could do today
14 | is ask for a brief response from the Bureau, or we have
15 | the chief of the Bureau who would like to spend a few
16 | minutes with your right now.

17 | MR. DANTA: I have no problem with that.
18 | Just a quick one while I was thinking, if you
19 | don't mind.

20 | CHAIR WEISSER: No. Put him back on the
21 | clock, 30 seconds.

22 | MR. DANTA: Okay. If the Air Resources Board
23 | wanted to clean up the South Coast Air Basin, all they
24 | would really need to do is look at all the illegal
25 | (inaudible) and find out how many were issuing

1 certificate tags they're giving for cars, because every
2 car tag is stolen off of a car is a car that has not
3 been smogged. Those are the cars that you need to get
4 off the road. If you just went after those cars, and
5 you've got the number, the statistical number just by
6 how many tags they were issued, you could clean up the
7 air.

8 CHAIR WEISSER: That has been brought forward
9 before.

10 MR. DANTA: But that would be (inaudible).

11 CHAIR WEISSER: Thank you very much, Patrick.
12 Please chat with Chief Ross, I think he's very
13 interested in the issue you raised.

14 MR. DANTA: And I appreciate your time and
15 thank you very much.

16 CHAIR WEISSER: Mr. Peters.

17 MR. PETERS: Yes, I'm Charlie Peters, Clean
18 Air Performance Professionals, we represent motorists.
19 You know, the subject of lobbying and who's on first,
20 who's on second and what we're doing and why we're
21 doing it has been mentioned by me and is not
22 necessarily a great comfort with everybody but it's
23 been mentioned.

24 Here is the evaluation of the bill that we've
25 discussed half the day today, AB386. Support, American

1 Lung Association.

2 Now, a member of the Committee indicated that
3 she'd gotten continuous updates to what's going on
4 there. I'll bet you that I probably am as active or
5 more active on Smog Check than anybody on the
6 Committee, probably everybody in the room, and I
7 certainly never got any updates. As a matter of fact,
8 I went into the office and provided documentation and
9 wasn't updated at all, wouldn't even talk to me. So,
10 but members of the Committee were able to get
11 continuous updates and are able to lobby and tell them
12 what they support and what they don't.

13 Here is the *Los Angeles Times*, February the
14 16th, 1994. "American Lung promotes/supports test-only
15 contractor for the State of California, how many jobs
16 that will create while cleaning up the air," et cetera,
17 done by the American Lung.

18 The same week the American Lung made a
19 presentation in Sacramento and I believe Mr. DeCota was
20 there and I believe that was quite an interesting
21 meeting that took place over this report. This report
22 was reported all over the country, it was in the *L.A.*
23 *Times* front page. As a matter of fact, (inaudible)
24 there.

25 Here's a report, a different report out of

1 Colorado saying that talks about all the lobbying that
2 goes on all across the country on these issues, how
3 friends of the president, friends of the governors, et
4 cetera, are all involved, and of course the primary
5 lobbyist mentioned is American Lung.

6 American Lung has been significantly involved
7 in this process, advertising for EnviroTest in
8 Pennsylvania. I've got reports from Pennsylvania
9 showing the pictures, and Pennsylvania got so bad that
10 national had to say that they had to divest themselves
11 of what was going on in Pennsylvania.

12 So, is the American Lung, haven't they
13 historically been significantly involved in this
14 process? Absolutely. Am I concerned about that?
15 Well, I'm certainly interested in that. And am I going
16 to say something about it? Yes, I am.

17 So I think we can do something here that
18 makes sense. I haven't heard it discussed or
19 considered at all. We have a meeting and an agreement,
20 start a pilot study, a '93 agreement. It still isn't
21 done and I'm still hoping that will get done and
22 demonstrated. Thank you, Mr. Chairman.

23 CHAIR WEISSER: Thank you, Mr. Peters. Are
24 there any other members of the audience who would care
25 to share anything? Len, and then we'll adjourn.

1 MR. TRIMLETT: Len Trimlett, smogrfg. I'd
2 like some clarification from the Committee. We had a
3 discussion on the bill last year where the Committee
4 wrote a letter after the DCA attorney said, no, you
5 can't lobby the Legislature as a Committee. Now, I'm
6 not clear on that. Don't look at me as though -

7 CHAIR WEISSER: Oh, no, Chief Ross and I were
8 exchanging nods. I don't have that recollection.

9 MR. TRIMLETT: The recollection the meeting
10 was held in the CARB building and you were there. It
11 was that five and six-year exemption bill from last
12 year.

13 CHAIR WEISSER: Um-hmm.

14 MR. TRIMLETT: And I'm not clear as whether
15 it was you could lobby the Legislature because it was
16 not on the agenda or because it was illegal to lobby.

17 CHAIR WEISSER: No, I think the issue was we
18 couldn't take a position on a measure because we hadn't
19 put it on the agenda, not whether or not the Committee
20 is allowed to advise the Legislature and the
21 Administration regarding things that are going on in
22 the Legislature or in the Executive Branch with issues
23 associated with the program.

24 MR. TRIMLETT: So it was mainly because it
25 was not on the agenda -

1 CHAIR WEISSER: That's correct.

2 MR. TRIMLETT: - rather than you being

3 precluded from lobbying.

4 CHAIR WEISSER: That's correct. And, you

5 know, I think the principle role of this organization,

6 this Committee, is to provide advice to the

7 Administration and to the Legislature. Part of that

8 advice would relate to legislation that could affect

9 the program.

10 MR. TRIMLETT: Special interest lobbying.

11 CHAIR WEISSER: Yes, I don't know how you

12 define special interest, but if you want to define this

13 Committee as a special interest, go right ahead.

14 MR. TRIMLETT: You bet.

15 CHAIR WEISSER: Okay. I think the special

16 interest of this Committee was put out when we did our

17 mission in the beginning, and that is to find cost-

18 effective ways to reduce emissions with maximum

19 convenience to the public and equity in terms of the

20 treatment of the industry. Thank you, Len.

21 I'm open for a motion to adjourn.

22 MEMBER HISSERICH: I'll make that.

23 CHAIR WEISSER: And that motion has been made

24 by John Hisserich and has been seconded by Gideon. Is

25 there any discussion? Hearing none - excuse me, we

1 have discussion from Mr. Carlisle.
2 MR. CARLISLE: Just one comment. The
3 meetings for the rest of the year will be at the Cal
4 EPA building at 1000 I street. Just want to remind
5 everybody of that.
6 CHAIR WEISSER: Oh. Excellent. Thank you, I
7 would have shown up here.
8 MEMBER HOTCHKISS: I still may.
9 CHAIR WEISSER: Did everyone hear that?
10 We'll be meeting at the Cal EPA building for the
11 meetings for the rest of the year. That is not
12 symbolic. We'll see.
13 All in favor of adjournment signify by saying
14 aye.
15 IN UNISON: Aye.
16 CHAIR WEISSER: Hearing any noes, we are
17 adjourned.

18 (Meeting Adjourned)

19 - o0o -
20
21
22

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17

This is to certify that I, TERRI HARPER, transcribed the tape-recorded meeting of the California Inspection & Maintenance Review Committee, dated April 26, 2005; that the pages numbered 1 through 213 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Dated May 5, 2005.

TERRI HARPER, Lead Transcriber
Northern California Court Reporters